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Bill 1

47 Government Bill

2ND SESSION, 34TH LEGISLATURE, ONTARIO

38 ELIZABETH II, 1989

Bill 1

An Act to amend the Ontario Municipal Board Act

The Hon. I. Scott
Attorney General



1st Reading April 25th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to convert the position of the secretary of the Board into a public service position. At present, the secretary is appointed by the Lieutenant Governor in Council and serves at pleasure.

Bill 1**1989**

**An Act to amend the
Ontario Municipal Board Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 27 (1) of the *Ontario Municipal Board Act*, being chapter 347 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(1) There shall be a secretary of the Board who shall be appointed under the *Public Service Act*.

Secretary
R.S.O. 1980,
c. 418

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Ontario Municipal Board Amendment Act, 1989*.

Short title

Bill 1

(Chapter 32
Statutes of Ontario, 1989)

An Act to amend the Ontario Municipal Board Act

The Hon. I. Scott
Attorney General



<i>1st Reading</i>	April 25th, 1989
<i>2nd Reading</i>	June 21st, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

Bill 1

1989

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Short title

1120N
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Bill 2

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General



1st Reading May 1st, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill substantially changes the structure of the Ontario courts.

The present structure of the courts is as follows:

1. The Supreme Court of Ontario has two branches, the Court of Appeal and the High Court of Justice. The Supreme Court is a superior court with civil and criminal jurisdiction whose judges are appointed by the federal government.
2. The District Court of Ontario has both civil and criminal jurisdiction but is not a superior court. Its civil jurisdiction is limited by the *Courts of Justice Act, 1984* to claims of less than \$25,000 unless both parties agree to let it hear a claim for a greater amount. Its judges are appointed by the federal government.
3. The Divisional Court is a division of the High Court that hears specified appeals assigned to it by statute and applications for judicial review of a decision of a board or agency. The judges of the High Court are the judges of the Divisional Court.
4. There are four courts presided over by provincial judges, the Provincial Court (Civil Division), the Provincial Court (Family Division), the Provincial Court (Criminal Division) and the Provincial Offences Court. The Provincial Offences Court is usually presided over by justices of the peace and the Provincial Court (Civil Division) is often presided over by part-time deputy judges.
5. The Unified Family Court is a specialized court for family law proceedings in The Regional Municipality of Hamilton-Wentworth. Its judges are appointed by the federal government and are also given the power of provincial judges for their work in the court.

The structure of the Ontario courts proposed by the Bill is as follows:

1. The Court of Appeal will be continued as the final court of appeal for the Province and will be separated from the High Court.
2. There will be a new court, to be called the Ontario Court of Justice, composed of two divisions, the General Division and the Provincial Division.
3. The Ontario Court (General Division) will combine the jurisdiction now exercised by the High Court, the District Court and the surrogate courts. The existing judges of those courts will all become judges of the Ontario Court (General Division). The General Division will be a superior court.
4. The Divisional Court will be continued with no change in its jurisdiction as a branch of the Ontario Court (General Division). All of the judges of the General Division will be judges of the Divisional Court.
5. The Small Claims Court will also be a branch of the Ontario Court (General Division). The monetary limit of the Small Claims Court will be prescribed by regulation. All of the judges of the General Division will be judges of the Small Claims Court. In addition, provincial judges who were formerly in the Provincial Court (Civil Division) will preside over matters in the Small Claims Court and deputy judges will be appointed for three-year renewable terms to preside over matters in the Small Claims Court that do not exceed a prescribed amount.
6. The Ontario Court (Provincial Division) combines the jurisdiction now exercised by the Provincial Court (Criminal Division), the Provincial Court (Family

Division) and the Provincial Offences Court. The existing judges of those courts will all become judges of the Ontario Court (Provincial Division).

7. The Unified Family Court is established as a superior court but is otherwise not changed.

A judge of the General Division will be appointed as Chief Judge of the Ontario Court to manage judicial resources for the General Division of the Ontario Court of Justice. A provincial judge will be appointed as Chief Judge of the Ontario Court (Provincial Division) to manage judicial resources for the Provincial Division.

The Province will be divided into regions for judicial purposes, with the number and area of the regions to be prescribed by regulation. A judge of the General Division will be appointed as regional senior judge of the General Division for each region to manage judicial resources for the General Division in the region, subject to the authority of the Chief Judge of the Ontario Court. A provincial judge will be appointed as regional senior judge of the Provincial Division for each region to manage judicial resources for the Provincial Division in the region, subject to the authority of the Chief Judge of the Ontario Court (Provincial Division).

The Chief Judge of the Ontario Court (Provincial Division) and the regional senior judges of the Provincial Division will be appointed to their administrative positions for five-year terms, after which they will return to being provincial judges.

The Ontario Courts Advisory Council will be replaced by the Ontario Courts Management Committee. In addition, each region will have a Regional Courts Management Committee consisting of the regional senior judges, the regional director of courts administration, the regional director of Crown attorneys and representatives of the regional bar and the public.

The Bill will also restructure rule-making for the courts. Part V of the existing Act establishes the Rules Committee of the Supreme and District Courts and provides for the making of rules of practice and procedure for civil proceedings in those courts. The Bill will establish three separate rules committees, the Civil Rules Committee, the Family Rules Committee and the Criminal Rules Committee, each to make rules in their respective areas.

Some of the other changes to the Act are as follows:

1. The number of judges of the Court of Appeal will be fixed by regulation rather than by statute.
2. Every judge of the General Division must be assigned to a particular region and there must be at least one judge of the General Division assigned to each county or district.
3. The judges of the Ontario Court of Justice are required to meet at least once each year and the judges of the Ontario Court in each region are required to meet at least once in each year to consider the Act, the rules and the administration of justice.
4. A limit on costs in the Small Claims Court is set at 15 per cent of the amount claimed unless the court considers it necessary in the interests of justice to penalize a person for unreasonable behaviour in the proceeding.
5. The Act now provides that the Province will pay \$3,000 each year to federally appointed judges. Although these payments will continue for judges appointed before the Bill comes into force, no payments will be made to future appointees.
6. There is no provision for the appointment of new masters.

7. The Lieutenant Governor in Council will be permitted to prescribe the form of the gown worn in court by all judges appointed after the Bill comes into force.
8. All Ontario Court and Unified Family Court judges may be addressed as "Your Honour", subject to the right of former High Court judges to elect to be addressed according to the old practice.
9. Errors in the Act are corrected with respect to jury trials (section 121) and setting off mutual debts (section 124). The medical examination provision of the Act (section 118) is amended to permit a court to order an examination by a registered psychologist.
10. The salaries of former Chief Judges, Associate Chief Judges and senior judges of the provincial courts and of the Senior Master are protected and they are permitted to retain their titles.
11. The transitional provisions and complementary amendments in the Act are amended to ensure the continuation of existing court proceedings in the new courts and to deem references to courts in other statutes to be references to the new courts.

The Bill is accompanied by the *Court Reform Statute Law Amendment Act, 1989*, which repeals the *Sheriffs Act* and makes consequential amendments to 52 other statutes.

Bill 2**1989****An Act to amend the Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:

1. In this Act,

Definitions

“action” means a civil proceeding that is not an application and includes a proceeding commenced by,

- (a) claim,
- (b) statement of claim,
- (c) notice of action,
- (d) counterclaim,
- (e) crossclaim,
- (f) third or subsequent party claim, or
- (g) divorce petition or counterpetition;

“application” means a civil proceeding that is commenced by notice of application or by application;

“defendant” means a person against whom an action is commenced;

“hearing” includes a trial;

“motion” means a motion in a proceeding or an intended proceeding;

“order” includes a judgment or decree;

“plaintiff” means a person who commences an action;

“region” means a region prescribed under section 92a. 1984, c. 11, s. 1, *amended*.

2. Parts I and II, Part III, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, section 1, 1985, chapter 1, section 4, 1986, chapter 7, section 15 and 1987, chapter 1, sections 1, 2 and 3, Part IV, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, sections 2, 3, 4 and 5 and 1987, chapter 1, sections 4, 5 and 6 and Part V, as amended by the Statutes of Ontario, 1984, chapter 64, sections 6 and 7, of the said Act are repealed and the following substituted therefor:

PART I

COURT OF APPEAL FOR ONTARIO

Court of
Appeal

2.—(1) The branch of the Supreme Court of Ontario named the Court of Appeal for Ontario is continued as a superior court of record named the Court of Appeal for Ontario.

Idem

(2) In exercising its jurisdiction, the Court of Appeal has all the power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2, *amended*.

Composition
of court

3.—(1) The Court of Appeal shall consist of,

- (a) the Chief Justice of Ontario, who shall be president of the court;
- (b) the Associate Chief Justice of Ontario; and
- (c) such number of other judges as is fixed under subsection (2), to be called justices of appeal. 1984, c. 11, s. 3 (1), *amended*.

Number of
judges

(2) The Lieutenant Governor in Council may by regulation fix the number of judges of the Court of Appeal who are in addition to the Chief Justice and the Associate Chief Justice.

Idem

(3) A reduction in the number of judges does not affect appointments existing at the time of the reduction. *New*.

Additional
judges

(4) There shall be such additional offices of judge of the Court of Appeal as are from time to time required, to be held by Chief Justices of Ontario and Associate Chief Justices of

Ontario who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Court of Appeal. 1984, c. 11, s. 6 (1), *amended*. R.S.C. 1985, c. J-1

(5) There shall be such additional offices of supernumerary judge of the Court of Appeal as are from time to time required, to be held by judges of the Court of Appeal who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of the court. 1984, c. 11, s. 6 (3), *amended*. Supernumerary judges

4.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Judge of the Ontario Court, may assign a judge of the Ontario Court (General Division) to perform the work of a judge of the Court of Appeal. 1984, c. 11, s. 9 (2), *amended*. Assignment of judges from General Division

(2) A judge of the General Division is, by virtue of his or her office, a judge of the Court of Appeal and has all the jurisdiction, power and authority of a judge of the Court of Appeal. 1984, c. 11, s. 8, *amended*. General Division judges

5.—(1) The Chief Justice of Ontario has general supervision and direction over the sittings of the Court of Appeal and the assignment of the judicial duties of the court. 1984, c. 11, s. 18 (5). Powers and duties of Chief Justice

(2) If the Chief Justice of Ontario is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by the Associate Chief Justice of Ontario. Absence of Chief Justice

(3) If the Chief Justice of Ontario and the Associate Chief Justice of Ontario are both absent from Ontario or for any reason unable to act, the powers and duties of the Chief Justice shall be exercised and performed by a judge of the Court of Appeal designated by the Chief Justice or Associate Chief Justice. 1984, c. 11, s. 3 (2), *amended*. Absence of Associate Chief Justice

6.—(1) An appeal lies to the Court of Appeal from, Court of Appeal jurisdiction

- (a) an order of the Divisional Court, on a question that is not a question of fact alone, with leave as provided in the rules of court;
- (b) a final order of a judge of the Ontario Court (General Division), except an order referred to in clause 18 (1) (a);

- (c) a certificate of assessment of costs issued in a proceeding in the Court of Appeal, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 17 (1), *amended*.

Combining of
appeals from
other courts

(2) The Court of Appeal has jurisdiction to hear and determine an appeal that lies to the Divisional Court or the Ontario Court (General Division) if an appeal in the same proceeding lies to and is taken to the Court of Appeal.

Idem

(3) The Court of Appeal may, on motion, transfer an appeal that has already been commenced in the Divisional Court or the Ontario Court (General Division) to the Court of Appeal for the purpose of subsection (2). 1984, c. 11, s. 17 (2), *amended*.

Composition
of court for
hearings

7.—(1) A proceeding in the Court of Appeal shall be heard and determined by not fewer than three judges sitting together, and always by an uneven number of judges. 1984, c. 11, s. 18 (1), *amended*.

Idem,
motions

(2) A motion in the Court of Appeal and an appeal under clause 6 (1) (c) shall be heard and determined by one judge.

Idem

(3) Subsection (2) does not apply to a motion for leave to appeal, a motion to quash an appeal or any other motion that is specified by the rules of court.

Idem

(4) A judge assigned to hear and determine a motion may adjourn the motion to a panel of the Court of Appeal.

Idem

(5) A panel of the Court of Appeal may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 18 (3), *amended*.

References to
Court of
Appeal

8.—(1) The Lieutenant Governor in Council may refer any question to the Court of Appeal for hearing and consideration.

Opinion of
court

(2) The court shall certify its opinion to the Lieutenant Governor in Council, accompanied by a statement of the reasons for it, and any judge who differs from the opinion may certify his or her opinion and reasons in the same manner.

Submissions
by Attorney
General

(3) On the hearing of the question, the Attorney General of Ontario is entitled to make submissions to the court.

Idem

(4) The Attorney General of Canada shall be notified and is entitled to make submissions to the court if the question relates to the constitutional validity or constitutional applica-

bility of an Act, or of a regulation or by-law made under an Act, of the Parliament of Canada or the Legislature.

(5) The court may direct that any person interested, or any one or more persons as representatives of a class of persons interested, be notified of the hearing and be entitled to make submissions to the court. Notice

(6) If an interest affected is not represented by counsel, the court may request counsel to argue on behalf of the interest and the reasonable expenses of counsel shall be paid by the Treasurer of Ontario. Appointment of counsel

(7) The opinion of the court shall be deemed to be a judgment of the court and an appeal lies from it as from a judgment in an action. 1984, c. 11, s. 19. Appeal

PART II

ONTARIO COURT OF JUSTICE

9.—(1) The Ontario Court of Justice is established. Ontario Court

(2) The Ontario Court shall consist of two divisions, the General Division and the Provincial Division. *New.* Divisions

ONTARIO COURT (GENERAL DIVISION)

10.—(1) The branch of the Supreme Court of Ontario named the High Court of Justice for Ontario, the District Court of Ontario and the surrogate courts are amalgamated and continued as a superior court of record named the Ontario Court (General Division). General Division

(2) The General Division has all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2 (1), *amended.* Idem

11.—(1) The General Division shall consist of, Composition of General Division

- (a) the Chief Judge of the Ontario Court, who shall be president of the Ontario Court;
- (b) a regional senior judge of the General Division for each region;
- (c) a senior judge of the General Division for the Unified Family Court; and

- (d) such number of judges of the General Division as is fixed under clause 53 (1) (a). 1984, c. 11, s. 4 (1), *amended*.

Additional
judges

(2) There shall be such additional offices of judge of the General Division as are from time to time required, to be held by Chief Judges of the Ontario Court and regional senior judges of the General Division who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Ontario Court. 1984, c. 11, s. 6 (1), *amended*.

R.S.C. 1985,
c. J-1

Super-
numerary
judges

(3) There shall be such additional offices of supernumerary judge of the General Division as are from time to time required, to be held by judges of the General Division who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of that division. 1984, c. 11, s. 6 (3), *amended*.

Assignment
of judges
from Court
of Appeal

12.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Judge of the Ontario Court, may assign a judge of the Court of Appeal to perform the work of a judge of the General Division. 1984, c. 11, s. 9 (1), *amended*.

Court of
Appeal
judges

(2) A judge of the Court of Appeal is, by virtue of his or her office, a judge of the General Division and has all the jurisdiction, power and authority of a judge of the General Division. 1984, c. 11, s. 8, *amended*.

Powers and
duties of
Chief Judge
of Ontario
Court

13.—(1) The Chief Judge of the Ontario Court shall direct and supervise the sittings of the Ontario Court (General Division) and the assignment of its judicial duties.

Regional
senior
judges,
General
Division

(2) A regional senior judge of the General Division shall, subject to the authority of the Chief Judge of the Ontario Court, exercise the powers and perform the duties of the Chief Judge in respect of the General Division in his or her region.

Delegation

(3) A regional senior judge of the General Division may delegate to a judge of the General Division in his or her region the authority to exercise specified functions. *New*.

Absence of
Chief Judge
of Ontario
Court

(4) If the Chief Judge of the Ontario Court is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the General Division designated by the Chief Judge of the Ontario Court. 1984, c. 11, s. 4 (3), *amended*.

Absence of
regional
senior judge
of General
Division

(5) The powers and duties of a regional senior judge of the General Division who is absent from Ontario or is for any rea-

son unable to act shall be exercised and performed by a judge of the General Division designated by the Chief Judge of the Ontario Court. *New.*

14.—(1) The Chief Judge of the Ontario Court shall assign every judge of the General Division to a region. Judges assigned to regions

(2) There shall be at least one judge of the General Division assigned to each county or district. At least one judge in each county

(3) No judge of the General Division who was a judge of the High Court of Justice or the District Court of Ontario before this section comes into force shall be assigned without his or her consent to a region other than the region in which he or she resided immediately before this section comes into force. High Court and District Court judges

(4) Subsections (1) to (3) do not prevent the temporary assignment of a judge to a location anywhere in Ontario. *New.* Idem

15. A proceeding in the General Division shall be heard and determined by one judge of the General Division. 1984, c. 11, s. 14 (1), *amended.* Composition of court for hearings

16. An appeal lies to the General Division from, Appeals to General Division

- (a) an interlocutory order of a master;
- (b) a certificate of assessment of costs issued in a proceeding in the General Division, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 13 (2), *amended.*

DIVISIONAL COURT

17.—(1) There shall be a branch of the General Division to be known as the Divisional Court consisting of the Chief Judge of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Judge designates from time to time. Divisional Court

(2) Every judge of the General Division is also a judge of the Divisional Court. 1984, c. 11, s. 5, *amended.* Jurisdiction of judges

18.—(1) An appeal lies to the Divisional Court from, Divisional Court jurisdiction

- (a) a final order of a judge of the General Division,

- (i) for a single payment of not more than \$25,000, exclusive of costs,
 - (ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,
 - (iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or
 - (iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii);
- (b) an interlocutory order of a judge of the General Division, with leave as provided in the rules of court;
 - (c) a final order of a master. 1984, c. 11, s. 15 (1), *amended*.

Combining of
appeals from
General
Division

(2) The Divisional Court has jurisdiction to hear and determine an appeal that lies to the General Division if an appeal in the same proceeding lies to and is taken to the Divisional Court.

Idem

(3) The Divisional Court may, on motion, transfer an appeal that has already been commenced in the General Division to the Divisional Court for the purpose of subsection (2). 1984, c. 11, s. 15 (2), *amended*.

Appeal from
interlocutory
orders

(4) No appeal lies from an interlocutory order of a judge of the General Division made on an appeal from an interlocutory order of the Provincial Division. 1984, c. 11, s. 36 (4), *amended*.

Appeals
heard in
regions

19.—(1) An appeal to the Divisional Court shall be heard in the region in which the order appealed from was made, unless the parties agree otherwise.

Other
proceedings
in any region

(2) Any other proceeding in the Divisional Court may be brought in any region. *New*.

Composition
of court for
hearings

20.—(1) A proceeding in the Divisional Court shall be heard and determined by three judges sitting together.

(2) A proceeding in the Divisional Court may be heard and determined by one judge where the proceeding, ^{Idem}

- (a) is an appeal under clause 18 (1) (c);
- (b) is an appeal under section 31 from a provincial judge or a deputy judge presiding over the Small Claims Court; or
- (c) is in a matter that the Chief Judge of the Ontario Court or a judge designated by the Chief Judge is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard and determined by one judge.

(3) A motion in the Divisional Court shall be heard and determined by one judge, unless otherwise provided by the rules of court. ^{Idem, motions}

(4) A judge assigned to hear and determine a motion may adjourn it to a panel of the Divisional Court. ^{Idem}

(5) A panel of the Divisional Court may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 16, *amended*. ^{Idem}

SMALL CLAIMS COURT

21. The Provincial Court (Civil Division) is continued as a branch of the General Division to be known as the Small Claims Court. *New.* ^{Small Claims Court}

22.—(1) The Small Claims Court shall consist of, ^{Composition of Small Claims Court}

- (a) every judge of the General Division;
- (b) every provincial judge who was assigned to the Provincial Court (Civil Division) before this section comes into force; and
- (c) the deputy judges appointed under subsection (2).

(2) A regional senior judge of the General Division may, with the approval of the Attorney General, appoint a barrister and solicitor to act as a deputy judge of the Small Claims Court for a term of three years. ^{Deputy judges}

(3) A regional senior judge of the General Division may renew the appointment of a deputy judge for one or more three-year terms. 1984, c. 11, s. 77 (2, 3), *amended*. ^{Idem}

Jurisdiction

23.—(1) The Small Claims Court,

- (a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed the prescribed amount exclusive of interest and costs; and
- (b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed the prescribed amount. 1984, c. 11, s. 78 (1), *amended*.

Transfer
from General
Division

(2) An action in the General Division may be transferred to the Small Claims Court by the local registrar of the General Division on requisition with the consent of all parties filed before the trial commences if,

- (a) the only claim is for the payment of money or the recovery of possession of personal property; and
- (b) the claim is within the jurisdiction of the Small Claims Court.

Idem

(3) An action transferred to the Small Claims Court shall be titled and continued as if it had been commenced in that court. 1984, c. 11, s. 84, *amended*.

Composition
of court for
hearings

24.—(1) A proceeding in the Small Claims Court shall be heard and determined by one judge or deputy judge.

Where
deputy judge
not to
preside

(2) A deputy judge shall not preside over the court in an action,

- (a) for the payment of money in excess of the prescribed amount; or
- (b) for the recovery of possession of personal property exceeding the prescribed amount in value. 1984, c. 11, s. 77 (2, 3), *amended*.

Summary
hearings

25. The Small Claims Court shall hear and determine in a summary way all questions of law and fact and may make such order as is considered just and agreeable to good conscience. 1984, c. 11, s. 78 (3), *amended*.

Representation

26. A party may be represented in a proceeding in the Small Claims Court by counsel or an agent but the court may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party if it finds that such person is not compe-

tent properly to represent the party or does not understand and comply at the hearing with the duties and responsibilities of an advocate. 1984, c. 11, s. 79, *amended*.

27.—(1) Subject to subsections (3) and (4), the Small Claims Court may admit as evidence at a hearing and act upon any oral testimony and any document or other thing so long as the evidence is relevant to the subject-matter of the proceeding, but the court may exclude anything unduly repetitious. Evidence

(2) Subsection (1) applies whether or not the evidence is given or proven under oath or affirmation or admissible as evidence in any other court. Idem

(3) Nothing is admissible in evidence at a hearing, Idem

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any Act.

(4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding. Conflicts

(5) A copy of a document or any other thing may be admitted as evidence at a hearing if the presiding judge is satisfied as to its authenticity. 1984, c. 11, s. 80, *amended*. Copies

28. The Small Claims Court may order the times and the proportions in which money payable under an order of the court shall be paid. 1984, c. 11, s. 81, *amended*. Instalment orders

29. An award of costs in the Small Claims Court, other than disbursements, shall not exceed 15 per cent of the amount claimed or the value of the property sought to be recovered unless the court considers it necessary in the interests of justice to penalize a party, counsel or agent for unreasonable behaviour in the proceeding. *New*. Limit on costs

30. Orders of the Small Claims Court shall be directed to a bailiff appointed under subsection 32 (1) for enforcement, unless otherwise provided by the rules of court. 1984, c. 11, s. 82, *amended*. Enforcement of orders

31. An appeal lies to the Divisional Court from a final order of the Small Claims Court in an action, Appeals

- (a) for the payment of money in excess of \$500, excluding costs; or
- (b) for the recovery of possession of personal property exceeding \$500 in value. 1984, c. 11, s. 83, *amended*.

Clerk and
bailiff of
Small Claims
Court

32.—(1) There shall be a clerk and one or more bailiffs for each division of the Small Claims Court who shall be appointed by the Lieutenant Governor in Council.

Idem

(2) With the approval of the Deputy Attorney General or the person designated by the Deputy Attorney General, every clerk and bailiff of the Small Claims Court in a division that is not designated under clause 53 (1) (g) may appoint in writing a deputy who may exercise and perform all the powers and duties of the clerk or bailiff.

Referee

(3) The Lieutenant Governor in Council may appoint a referee for a division of the Small Claims Court. 1984, c. 11, s. 86 (4, 5), *amended*.

PROVINCIAL DIVISION

Provincial
Division

33. The Provincial Court (Criminal Division), the Provincial Court (Family Division) and the Provincial Offences Court are amalgamated and continued as a court of record named the Ontario Court (Provincial Division). *New*.

Composition
of Provincial
Division

34. The Provincial Division shall consist of,

- (a) the Chief Judge of the Provincial Division appointed under subsection 41 (3), who shall be president of the Provincial Division;
- (b) a regional senior judge of the Provincial Division appointed under subsection 41 (4) for each region; and
- (c) such provincial judges as are appointed under subsection 41 (1). *New*.

Powers and
duties of
Chief Judge
of Provincial
Division

35.—(1) The Chief Judge of the Provincial Division shall direct and supervise the sittings of the Provincial Division and the assignment of its judicial duties. 1984, c. 11, s. 63 (5), *amended*.

Regional
senior
judges,
Provincial
Division

(2) A regional senior judge of the Provincial Division shall, subject to the authority of the Chief Judge of the Provincial

Division, exercise the powers and perform the duties of the Chief Judge of the Provincial Division in his or her region.

(3) A regional senior judge of the Provincial Division may delegate to a judge of the Provincial Division in his or her region the authority to exercise specified functions. *New.*

Delegation

(4) If the Chief Judge of the Provincial Division is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the Provincial Division designated by the Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (7), *amended.*

Absence of
Chief Judge
of Provincial
Division

(5) The powers and duties of a regional senior judge of the Provincial Division who is absent from Ontario or is for any reason unable to act shall be exercised and performed by a judge of the Provincial Division designated by the Chief Judge of the Provincial Division. *New.*

Absence of
regional
senior judge
of Provincial
Division

36.—(1) The Chief Judge of the Ontario Court (Provincial Division) shall assign every provincial judge to a region.

Judges
assigned to
regions

(2) Subsection (1) does not prevent the temporary assignment of a provincial judge to a location anywhere in Ontario. *New.*

Idem

37.—(1) A provincial judge has the power and authority of two or more justices of the peace when sitting in the Provincial Division and shall exercise the powers and perform the duties that any Act of the Parliament of Canada confers on a provincial court judge when sitting in the Provincial Division. 1984, c. 11, s. 67 (1), *amended.*

Criminal
jurisdiction

(2) The Provincial Division shall perform any function assigned to it by or under the *Provincial Offences Act*, the *Family Law Act, 1986*, the *Children's Law Reform Act*, the *Child and Family Services Act, 1984* or any other Act. 1984, c. 11, s. 69, s. 75 (1) (a), (k), *amended.*

Provincial
offences and
family
jurisdiction
R.S.O. 1980,
c. 400
1986, c. 4
R.S.O. 1980,
c. 68
1984, c. 55

(3) The Provincial Division is a youth court for the purposes of the *Young Offenders Act* (Canada). 1984, c. 11, s. 67 (2), s. 75 (1) (b), *amended.*

Youth court
jurisdiction
R.S.C. 1985,
c. Y-1

38.—(1) A proceeding in the Provincial Division shall be heard and determined by one judge of the Provincial Division. 1984, c. 11, s. 66 (2), s. 74 (2), *amended.*

Judge to
preside

Justice of the
peace may
preside
R.S.O. 1980,
c. 400

(2) A justice of the peace may preside over the Provincial Division in a proceeding under the *Provincial Offences Act*. 1984, c. 11, s. 68 (2), *amended*.

Appeals

39.—(1) If no provision is made concerning an appeal from an order of the Provincial Division, an appeal lies to the General Division.

Exception
R.S.C. 1985,
c. C-46

(2) Subsection (1) does not apply to a proceeding under the *Criminal Code* (Canada) or the *Provincial Offences Act*. 1987, c. 1, s. 6, *amended*.

Penalty for
disturbance
outside
courtroom

40. Any person who knowingly disturbs or interferes with a proceeding in the Provincial Division without reasonable justification while outside the courtroom is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. 1984, c. 11, s. 72, *amended*.

PROVINCIAL JUDGES

Appointment
of provincial
judges

41.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such provincial judges as are considered necessary.

Qualifications

(2) No person shall be appointed as a provincial judge unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years. 1984, c. 11, s. 52.

Chief Judge

(3) The Lieutenant Governor in Council may appoint a provincial judge as Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (1), *amended*.

Regional
senior judges

(4) The Lieutenant Governor in Council may appoint a provincial judge to be the regional senior judge of the Provincial Division for each region.

Term of
office

(5) The Chief Judge of the Provincial Division and the regional senior judges of the Provincial Division shall hold office for five years.

Idem

(6) If a successor is not appointed within five years, the Chief Judge or a regional senior judge shall continue in office until the successor is appointed, but in no case shall the Chief Judge or regional senior judge hold office for more than seven years.

Former Chief
Judge, etc.

(7) A Chief Judge or a regional senior judge whose term of office expires under subsection (5) or (6) shall continue to

hold the office of provincial judge and is entitled to an annual salary equal to the greater of,

- (a) the current annual salary of a provincial judge; or
- (b) the annual salary he or she received immediately before ceasing to be Chief Judge or regional senior judge.

(8) A Chief Judge or regional senior judge whose term of office expires under subsection (5) or (6) shall not be reappointed to the same position. *New.*

Chief Judge,
etc., not to
be
reappointed

42.—(1) A provincial judge shall devote his or her whole time to the performance of his or her duties as a judge, except as authorized by the Lieutenant Governor in Council.

Other
employment

(2) Despite subsection (1), a provincial judge who, before the 1st day of January, 1985, had the consent of the Attorney General to act as an arbitrator or conciliator may continue to so act. 1984, c. 11, s. 53, *amended.*

Idem

43.—(1) Every provincial judge shall retire upon attaining the age of sixty-five years.

Retirement

(2) Despite subsection (1), a provincial judge appointed as a full-time magistrate, judge of a juvenile and family court or master before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years.

Idem

(3) A judge who has attained the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in office as a full-time or part-time judge until he or she attains the age of seventy years.

Continuation
of judges in
office

(4) A judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years.

Idem

(5) A regional senior judge of the Provincial Division who is in office upon attaining the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Continuation
of regional
senior judge
in office

(6) A regional senior judge of the Provincial Division who is in office upon attaining the age of seventy years may, subject to the annual approval of the Judicial Council, continue

Idem

in that office until he or she has attained the age of seventy-five years.

Continuation
in office of
Chief Judge
of Provincial
Division

(7) If the Chief Judge of the Provincial Division is in office upon attaining the age for retirement under subsection (1) or (2), he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. 1984, c. 11, s. 54, *amended*.

Resignation
of judge

44.—(1) A provincial judge may at any time resign from his or her office by delivering a signed letter of resignation to the Attorney General.

Resignation
as Chief
Judge, etc.

(2) A Chief Judge or a regional senior judge may, before the expiry of his or her term of office under subsection 41 (5) or (6), elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General.

Effective
date

(3) A resignation or election under this section takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day. 1984, c. 11, s. 55, s. 65, *amended*.

Removal for
cause

45.—(1) A provincial judge may be removed from office before attaining retirement age only if,

- (a) a complaint regarding the judge has been made to the Judicial Council; and
- (b) the removal is recommended by an inquiry held under section 49 on the ground that the judge has become incapacitated or disabled from the due execution of his or her office by reason of,
 - (i) infirmity,
 - (ii) conduct that is incompatible with the execution of his or her office, or
 - (iii) having failed to perform the duties of his or her office.

Order for
removal

(2) An order removing a provincial judge from office under this section may be made by the Lieutenant Governor on the address of the Legislative Assembly. 1984, c. 11, s. 56, *amended*.

46.—(1) The Judicial Council for Provincial Judges is continued as the Ontario Judicial Council and shall be composed of,

Judicial
Council

- (a) the Chief Justice of Ontario, who shall preside over the Ontario Judicial Council;
- (b) the Associate Chief Justice of Ontario;
- (c) the Chief Judge of the Ontario Court;
- (d) the Chief Judge of the Ontario Court (Provincial Division);
- (e) the Treasurer of The Law Society of Upper Canada; and
- (f) not more than two other persons appointed by the Lieutenant Governor in Council.

(2) A majority of members of the Judicial Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Judicial Council.

Quorum

(3) Such officers and employees of the Judicial Council as are considered necessary may be appointed under the *Public Service Act*.

Staff
R.S.O. 1980,
c. 418

(4) The Judicial Council may engage persons, including counsel, to assist it in its investigations. 1984, c. 11, s. 57, *amended*.

Expert
assistance

(5) An investigation commenced by the Judicial Council before this section comes into force shall be continued by the Judicial Council as it was constituted before this section comes into force. *New*.

Transition

47.—(1) The functions of the Judicial Council are,

Functions

- (a) to consider all proposed appointments of provincial judges and make a report on them to the Attorney General;
- (b) to receive and investigate complaints against provincial judges.

(2) No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer of it or any person acting under its authority for any act

Liability for
damages

done in good faith in the execution or intended execution of its or his or her duty. 1984, c. 11, s. 58.

Investigation
of complaints

48.—(1) Where the Judicial Council receives a complaint against a provincial judge, it shall take such action to investigate the complaint as it considers advisable.

Referral to
Chief Judge

(2) The Judicial Council may transmit those complaints it considers appropriate,

(a) concerning provincial judges to the Chief Judge of the Provincial Division; and

(b) concerning masters to the Chief Judge of the Ontario Court.

Proceedings
not public

(3) The proceedings of the Judicial Council shall not be public, but it may inform the Attorney General respecting matters that it has investigated and the Attorney General may make public the fact that an investigation has been undertaken.

Prohibiting
publication

(4) The Judicial Council may order that information or documents relating to its proceedings not be published or disclosed except as required by law.

Powers

R.S.O. 1980,
c. 411

(5) The Judicial Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Notice of
disposition

(6) When the Judicial Council has dealt with a complaint regarding a provincial judge, it shall inform the following persons of its disposition of the complaint:

1. The person who made the complaint.

2. If the complaint was brought to the attention of the judge, the judge.

Report and
recommendations

(7) The Judicial Council may report its opinion regarding the complaint to the Attorney General and may recommend,

(a) that an inquiry be held under section 49;

(b) that the judge be compensated for all or part of the costs incurred by the judge relating to the investigation.

Copy to
judge

(8) A copy of a report made under subsection (7) shall be given to the judge.

(9) The Judicial Council shall not make a report under subsection (7) unless the judge was notified of the investigation and given an opportunity to be heard and to produce evidence on his or her behalf.

Right to be heard

(10) When the Judicial Council makes a report to the Attorney General under subsection (7), the Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. 1984, c. 11, s. 59, *amended*.

Publication of report

49.—(1) The Lieutenant Governor in Council may appoint a judge of the General Division to inquire into the question whether a provincial judge should be removed from office.

Inquiry

(2) The *Public Inquiries Act* applies to an inquiry under subsection (1).

Powers
R.S.O. 1980,
c. 411

(3) The report of the inquiry may recommend,

Report

(a) that the judge be removed from office;

(b) that the judge be compensated for all or part of the costs incurred by the judge relating to the inquiry.

(4) The report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session. 1984, c. 11, s. 60, *amended*.

Tabling of report

50. Every provincial judge is a justice of the peace and commissioner for taking affidavits. 1984, c. 11, s. 61.

Every provincial judge a justice

51.—(1) The committee known as the Ontario Provincial Courts Committee is continued as the Provincial Judges Remuneration Commission.

Provincial Judges Remuneration Commission

(2) The Commission shall be composed of the following three members:

Composition of Commission

1. One appointed jointly by the associations representing provincial judges.
2. One appointed by the Lieutenant Governor in Council.
3. One, who shall head the Commission, appointed jointly by the bodies referred to in paragraphs 1 and 2.

Function

(3) The function of the Provincial Judges Remuneration Commission is to inquire into and make recommendations to the Lieutenant Governor in Council respecting any matter relating to the remuneration, allowances and benefits of provincial judges, including the matters referred to in clauses 53 (1) (b) and (c).

Annual report

(4) The Commission shall make an annual report of its activities to the Lieutenant Governor in Council.

Tabling of recommendations

(5) Recommendations of the Commission and its annual report shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days of the commencement of the next session. 1984, c. 11, s. 88, *amended*.

MISCELLANEOUS

Meeting of judges

52.—(1) The judges of the Ontario Court of Justice shall meet at least once in each year, on a day fixed by the Chief Judge of the Ontario Court, in order to consider this Act, the rules of court and the administration of justice generally.

Idem

(2) The judges shall report their recommendations to the Attorney General. 1984, c. 11, s. 10, *amended*.

Regional meeting of judges

(3) The judges of the Ontario Court of Justice in each region shall meet at least once in each year, on a day fixed by the regional senior judge of the General Division, in order to consider this Act, the rules of court and the administration of justice in the region generally.

Idem

(4) The judges shall report their recommendations to the Attorney General. *New*.

Regulations

53.—(1) The Lieutenant Governor in Council may make regulations,

- (a) fixing the number of judges of the General Division who are in addition to the Chief Judge, the regional senior judges and the Senior Judge for the Unified Family Court;
- (b) fixing the remuneration of provincial judges and masters;
- (c) providing for the benefits to which provincial judges and masters are entitled, including,
 - (i) leave of absence and vacations,

- (ii) sick leave credits and payments in respect of those credits,
 - (iii) pension benefits for provincial judges, masters and their surviving spouses and children;
 - (d) prescribing territorial divisions for the Small Claims Court and the place within each division where the court office shall be located;
 - (e) prescribing the maximum amount of a claim in the Small Claims Court for the purposes of subsection 23 (1);
 - (f) prescribing the maximum amount of a claim over which a deputy judge may preside for the purposes of subsection 24 (1);
 - (g) providing for the retention of fees by clerks, bailiffs and referees of the Small Claims Court who are not civil servants under the *Public Service Act* and designating divisions where clerks, bailiffs and referees of the Small Claims Court may be appointed to a position as a civil servant under that Act; R.S.O. 1980, c. 418
 - (h) prescribing for each region the minimum number of judges of the General Division and of the Provincial Division who are to be assigned to that region. 1984, c. 11, s. 4 (2), s. 20 (4), s. 87 (1), *amended*.
- (2) A reduction in the number of judges of the General Division under clause (1) (a) does not affect appointments existing at the time of the reduction. 1984, c. 11, s. 4 (2), *amended*. Idem
- (3) Regulations made under clause (1) (c) may require judges and masters to contribute from their salaries part of the costs of benefits and may fix the amount of the contributions. Contributions
- (4) A regulation made under clause (1) (c) may modify or exclude the application of the *Public Service Superannuation Act*. Application of R.S.O. 1980, c. 419
- (5) A regulation made under subsection (1) may be general or particular in its application. 1984, c. 11, s. 20 (5-7), s. 87 (2-4), *amended*. Application of regulations

PART III

UNIFIED FAMILY COURT

Unified
Family Court

54. The Unified Family Court is continued as a superior court of record in and for The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 38, *amended*.

Composition
of court

55.—(1) The Unified Family Court shall be presided over by,

(a) a judge of the Ontario Court (General Division) appointed as senior judge for the Unified Family Court; or

(b) a judge of the Ontario Court (General Division),

who is authorized under subsection (4) to exercise the jurisdiction of a judge of the Ontario Court (Provincial Division).

Duties of
senior judge

(2) The senior judge for the Unified Family Court shall supervise and direct the sittings and the assignment of the judicial duties of the Unified Family Court.

Authority for
Provincial
Division
matters

(3) The Lieutenant Governor in Council may authorize a judge of the General Division to exercise the jurisdiction of a judge of the Provincial Division.

Exercise of
existing
jurisdiction

(4) A judge who may preside over the Unified Family Court shall exercise his or her jurisdiction as a judge of the General Division or a judge of the Provincial Division in the matters in which the General Division or the Provincial Division or a judge of one of them has jurisdiction under the statutory provisions set out in the Schedule to this Part. 1984, c. 11, s. 39; 1987, c. 1, s. 1, *amended*.

Proceedings
in Unified
Family Court

56.—(1) Proceedings taken in a court in The Regional Municipality of Hamilton-Wentworth under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, shall be commenced and titled in the Unified Family Court and the jurisdiction of the court shall be exercised in the Unified Family Court.

Idem
S.C. 1986,
c. 4
1986, c. 4
R.S.O. 1980,
c. 68

(2) A motion for interim relief under the *Divorce Act*, 1985 (Canada), the *Family Law Act*, 1986 or the *Children's Law Reform Act* in a proceeding in the General Division shall be heard in the Unified Family Court if it is required or permitted to be heard in The Regional Municipality of Hamilton-Wentworth by the rules of court or an order of the court. 1984, c. 11, s. 40 (1, 2) *amended*.

(3) All proceedings in or transferred to the Unified Family Court shall be heard and determined without a jury. 1984, c. 11, s. 40 (4), *amended*. No jury

57. Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the judge but respecting which jurisdiction may not be exercised in the Unified Family Court, the court may, with leave of the judge, hear and determine the combined matters. 1984, c. 11, s. 41, *amended*. Other jurisdiction

58.—(1) The Unified Family Court may hear and determine an application under an Act to discharge, vary or suspend an order made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. Orders of predecessor court

(2) The Unified Family Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. 1984, c. 11, s. 42, *amended*. Enforcement

59.—(1) Subject to subsection (2), proceedings referred to in subsection 56 (1) may be commenced in the Unified Family Court where the applicant or the respondent resides in The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 44 (1), *amended*. Place where proceedings commenced

(2) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in The Regional Municipality of Hamilton-Wentworth may be commenced in the Unified Family Court. 1984, c. 11, s. 44 (2), *amended*. Idem, custody or access
R.S.O. 1980, c. 68

(3) A judge who may preside over the Unified Family Court may, on motion, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (3). Transfer to other court

(4) A judge of a court having jurisdiction in a proceeding under a statutory provision set out in the Schedule to this Part in an area other than The Regional Municipality of Hamilton-Wentworth may, on motion, order that the proceeding be transferred to the Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (4), *amended*. Transfer from other court

Directions

(5) A judge making an order under subsection (3) or (4) may give such directions for the transfer as are considered just. 1984, c. 11, s. 44 (5).

Status of orders

60. An order of a judge presiding over the Unified Family Court made in the exercise of his or her jurisdiction as a judge of the Ontario Court (General Division) is an order of the General Division for all purposes. 1984, c. 11, s. 45, *amended*.

Appeals

61.—(1) Subject to subsection (2), a provision for an appeal from an order made under the statutory provisions set out in the Schedule to this Part applies to an order when made in the exercise of the jurisdiction by a judge presiding over the Unified Family Court.

Idem

(2) Where an order made by the Unified Family Court under a statutory provision set out in the Schedule to this Part is within the jurisdiction of the Ontario Court (General Division) outside The Regional Municipality of Hamilton-Wentworth, the order shall, for the purposes of an appeal, be deemed to have been made by a judge of the General Division. 1984, c. 11, s. 46 (1, 2), *amended*.

Idem

(3) Where no provision is made for an appeal from an order of a judge presiding over the Unified Family Court, an appeal lies,

- (a) to the Court of Appeal from a final order, except an order referred to in clause (b);
- (b) to the Divisional Court from a final order,
 - (i) for a single payment of not more than \$25,000, exclusive of costs,
 - (ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,
 - (iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or
 - (iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount

awarded would have been not more than the amount set out in subclause (i) or (ii); or

- (c) to the Divisional Court from an interlocutory order, with leave as provided in the rules of court. 1984, c. 11, s. 46 (4), *amended*.

62.—(1) A judge presiding over the Unified Family Court has all the powers of a judge sitting in the Ontario Court (Provincial Division) for the purposes of proceedings under the *Criminal Code* (Canada).

Criminal jurisdiction

R.S.C. 1985, c. C-46

(2) The Unified Family Court shall be deemed to be and shall sit as the Provincial Division for the purpose of prosecutions under the *Family Law Act, 1986*, the *Children's Law Reform Act*, the *Minors' Protection Act* and Part III (Child Protection) and Part VII (Adoption) of the *Child and Family Services Act, 1984*.

Idem

1986, c. 4
R.S.O. 1980, cc. 68, 293
1984, c. 55

(3) The Unified Family Court is a youth court for the purpose of the *Young Offenders Act* (Canada). 1984, c. 11, s. 47, *amended*.

Idem

R.S.C. 1985, c. Y-1

63. A conciliation service may be established, maintained and operated as part of the Unified Family Court. 1984, c. 11, s. 49.

Conciliation service

64.—(1) The Lieutenant Governor in Council may make rules for the Unified Family Court in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

Rules

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) discovery and other forms of disclosure before hearing, including their scope and their admissibility and use in a proceeding;
- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;

- (g) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (h) costs of proceedings;
- (i) enforcement of orders and process;
- (j) payment into and out of court;
- (k) any matter that is referred to in an Act as provided for by rules of court.

Idem

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure.

Idem

(3) The rules of court made under Part V do not apply to proceedings in the Unified Family Court. 1984, c. 11, s. 51, *amended*.

SCHEDULE

Jurisdiction under the following statutory provisions:

	Statutes	Provisions
1.	Annulment of Marriages Act (Ontario) (Canada)	All
2.	Change of Name Act, 1986	All
3.	Child and Family Services Act, 1984	Parts III, VI and VII
4.	Children's Law Reform Act	All, except sections 60 and 61
5.	Divorce Act, 1985 (Canada)	All
6.	Education Act	Sections 29 and 30
7.	Family Law Act, 1986	All, except Part V
8.	Marriage Act	Sections 6 and 9
9.	Minors' Protection Act	Section 2
10.	Reciprocal Enforcement of Maintenance Orders Act, 1982	All
11.	Support and Custody Orders Enforcement Act, 1985	All
12.	Young Offenders Act (Canada)	All

PART IV
RULES OF COURT

65.—(1) The Civil Rules Committee is established and shall be composed of, Civil Rules Committee

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) nine judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (d) the Attorney General or a person designated by the Attorney General;
- (e) one law officer of the Crown, who shall be appointed by the Attorney General;
- (f) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (g) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (h) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario; and
- (i) four barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court.

(2) The Chief Justice of Ontario shall preside over the Civil Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside. Idem

(3) Each of the members of the Civil Rules Committee appointed under clauses (1) (b), (c), (e), (f), (g), (h) and (i) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

Vacancies

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (e), (f), (g), (h) or (i), a new member similarly qualified may be appointed for the remainder of the unexpired term.

Quorum

(5) A majority of the members of the Civil Rules Committee constitutes a quorum. 1984, c. 11, s. 89, *amended*.

Civil Rules

66.—(1) Subject to the approval of the Lieutenant Governor in Council, the Civil Rules Committee may make rules for the Court of Appeal and the Ontario Court (General Division) in relation to the practice and procedure of those courts in all civil proceedings, including family law proceedings.

Idem

(2) The Civil Rules Committee may make rules for the courts described in subsection (1), even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, the binding effect of orders and representation of parties;
- (c) commencement of proceedings, representation of parties by solicitors and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and its effect and authorizing the Court of Appeal to determine in the first instance a special case arising in a proceeding commenced in the Ontario Court (General Division);
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including their scope and the admissibility and use of that discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) jurisdiction of masters, including the conferral on masters of any jurisdiction of the Ontario Court (General Division), including jurisdiction under an Act, but not including the trial of actions or jurisdiction conferred by an Act on a judge;

- (i) jurisdiction and duties of officers;
- (j) motions and applications, including the hearing of motions in the absence of the public and prohibiting a party from making motions without leave;
- (k) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (l) interpleader;
- (m) preparation for trial and offers to settle and their legal consequences;
- (n) the mode and conduct of trials;
- (o) the appointment by the court of independent experts, their remuneration and the admissibility and use of their reports;
- (p) the discount rate to be used in determining the amount of an award in respect of future pecuniary damages;
- (q) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (r) costs of proceedings, including security for costs and a solicitor's liability for or disentitlement to costs;
- (s) enforcement of orders and process or obligations under the rules;
- (t) the time for and procedure on appeals and stays pending appeal;
- (u) payment into and out of court;
- (v) any matter that is referred to in an Act as provided for by rules of court.

(3) Nothing in subsection (1) or (2) authorizes the making of rules that conflict with an Act, but rules may be made under subsections (1) and (2) supplementing the provisions of an Act in respect of practice and procedure. 1984, c. 11, s. 90, *amended*. Idem

67.—(1) The Family Rules Committee is established and shall be composed of, Family Rules Committee

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the senior judge for the Unified Family Court;
- (c) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (d) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (e) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (i) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (j) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court; and
- (k) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

Idem

(2) The Chief Justice of Ontario shall preside over the Family Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice shall preside.

Tenure of
office

(3) Each of the members of the Family Rules Committee appointed under clauses (1) (c), (d), (e), (g), (h), (i), (j) and (k) shall hold office for a period of three years and is eligible for reappointment.

(4) Where a vacancy occurs among the members appointed under clause (1) (c), (d), (e), (g), (h), (i), (j) or (k), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Family Rules Committee constitutes a quorum. *New.* Quorum

68.—(1) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under statutory provisions set out in the Schedule to Part III (Unified Family Court), except proceedings under the *Young Offenders Act* (Canada). Family Rules

R.S.C. 1985,
c. Y-1

(2) Subsections 66 (2) and (3) apply with necessary modifications to the Family Rules Committee making rules for the courts described in subsection (1). Idem

(3) The rules made by the Family Rules Committee may adopt, modify or exclude the rules made by the Civil Rules Committee. May modify
civil rules

(4) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may prepare rules for the purpose of section 68 of the *Young Offenders Act* (Canada) for consideration by the Ontario Court (Provincial Division). *New.* Rules for
*Young
Offenders Act*

69.—(1) The Criminal Rules Committee is established and shall be composed of, Criminal
Rules
Committee

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (d) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);

- (e) one justice of the peace, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) three Crown attorneys, deputy Crown attorneys or assistant Crown attorneys, who shall be appointed by the Attorney General;
- (i) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (j) two barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (k) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario;
- (l) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court; and
- (m) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

Idem

(2) The Chief Justice of Ontario shall preside over the Criminal Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside.

Tenure of office

(3) Each of the members of the Criminal Rules Committee appointed under clauses (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) and (m) shall hold office for a period of three years and is eligible for reappointment.

Vacancies

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) or (m), a new member similarly qualified may be appointed for the remainder of the unexpired term.

Quorum

(5) A majority of the members of the Criminal Rules Committee constitutes a quorum. *New.*

70.—(1) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may prepare rules for the purposes of section 482 of the *Criminal Code* (Canada) for consideration by the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division).

Criminal
Rules

R.S.C. 1985,
c. C-46

(2) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under the *Provincial Offences Act*. *New.*

Provincial
offences rules

R.S.O. 1980,
c. 400

(3) The Criminal Rules Committee may make rules under subsection (2),

Idem

- (a) regulating any matters relating to the practice and procedure of proceedings under the *Provincial Offences Act*;
- (b) prescribing forms;
- (c) regulating the duties of the employees of the courts;
- (d) prescribing and regulating the procedures under any Act that confers jurisdiction under the *Provincial Offences Act* on the Ontario Court (Provincial Division) or a judge or justice of the peace sitting in it;
- (e) prescribing any matter relating to proceedings under the *Provincial Offences Act* that is referred to in an Act as provided for by the rules of court. 1984, c. 11, s. 73 (3), *amended*.

3. Sections 92 and 93 of the said Act are repealed and the following substituted therefor:

92.—(1) There shall be a committee, known as the Ontario Courts Management Committee, composed of,

Ontario
Courts
Management
Committee

- (a) the Chief Justice of Ontario;
- (b) the Associate Chief Justice of Ontario;
- (c) the Chief Judge of the Ontario Court;
- (d) the Chief Judge of the Ontario Court (Provincial Division);

- (e) the Attorney General;
- (f) the Deputy Attorney General; and
- (g) such other persons as are appointed by the Attorney General after consultation with the persons mentioned in clauses (a) to (d).

Who to
preside

(2) The Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Attorney General or his or her designate shall, by rotation, preside over meetings of the Committee.

Function of
Committee

(3) The function of the Committee is to consider and recommend policies and procedures to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest. *New.*

Regions for
judicial
purposes

92a.—(1) For judicial purposes, Ontario is divided into the regions prescribed under subsection (2).

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing regions for the purpose of this Act. *New.*

Regional
courts
management
committees

92b.—(1) There shall be a committee in each region, known as the Regional Courts Management Committee, composed of,

- (a) the regional senior judge of the Ontario Court (General Division);
- (b) the regional senior judge of the Ontario Court (Provincial Division);
- (c) the regional director of courts administration for the Ministry of the Attorney General;
- (d) the regional director of Crown attorneys;
- (e) a barrister and solicitor who practises law in the region, to be appointed by the Attorney General; and
- (f) such other persons as are appointed by the Attorney General after consultation with the persons mentioned in clauses (a) and (b).

Who to
preside

(2) The persons mentioned in clauses (1) (a) to (d) shall, by rotation, preside over meetings of the Committee.

(3) The function of the Committee is to consider and recommend policies and procedures for the region to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest.

Function of
Committee

(4) The Committee shall meet at least four times each year.

Frequency of
meetings

93. The powers and duties of a judge who has authority to supervise and direct the sittings and the assignment of the judicial duties of his or her court include the following:

Powers of
chief or
regional
senior judge

1. Assigning cases to individual judges.
2. Determining the sitting schedules for individual judges.
3. Determining the places of sittings for individual judges.
4. Determining the total annual, monthly and weekly workload of individual judges.
5. Preparing trial lists and assigning courtrooms, to the extent necessary to control the determination of who is assigned to hear particular cases. 1984, c. 11, s. 93, *amended*.

4. Section 94 of the said Act is amended by adding thereto the following subsections:

(2) A power or duty given to a registrar, sheriff, court clerk, assessment officer or official examiner under an Act, regulation or rule of court may be exercised or performed by a person or class of persons to whom the power or duty has been assigned by the Deputy Attorney General or a person designated by the Deputy Attorney General.

Exercise of
powers of
registrar,
sheriff, etc.

(3) Subsection (2) applies in respect of an Act, regulation or rule of court made under the authority of the Legislature or of the Parliament of Canada.

Idem

5. The said Act is amended by adding thereto the following section:

95a. Documents and other material that are no longer required in a court office shall be disposed of in accordance with the directions of the Deputy Attorney General, subject to the approval of,

Destruction
of documents

- (a) in the Court of Appeal, the Chief Justice of Ontario;
- (b) in the Ontario Court of Justice, the Chief Judge of the Ontario Court of Justice;
- (c) in the Unified Family Court, the Senior Judge for the Unified Family Court. 1984, c. 11, s. 101 (4), *amended*.

6. Section 98 of the said Act is repealed and the following substituted therefor:

Liability of
judges

98. Every judge of a court in Ontario and every master has the same immunity from liability as a judge of the Ontario Court (General Division).

7. Section 99 of the said Act is repealed and the following substituted therefor:

Compensation for
statutory
duties

99. Every judge who was a judge of the Supreme Court or of the District Court before this section comes into force shall be paid out of the Consolidated Revenue Fund the annual sum of \$3,000, payable quarterly, as compensation for the services the judge is called on to render by any Act of the Legislature in addition to his or her ordinary duties.

8. Subsection 100 (1) of the said Act is amended by striking out “Supreme Court or the District Court” in the first and second lines and inserting in lieu thereof “Court of Appeal or the Ontario Court (General Division)”.

9. The said Act is further amended by adding thereto the following sections:

Judges’
gowns

100a. The Lieutenant Governor in Council may make regulations respecting the form of the gown to be worn in court by all judges appointed after this section comes into force.

How judges
to be
addressed

100b.—(1) Every judge of the Ontario Court of Justice and the Unified Family Court may be addressed as “Your Honour” or as “Judge (*naming the judge*)”.

Idem

(2) A judge appointed to the High Court of Justice before this section comes into force may elect to be addressed according to the practice in existence before this section comes into force.

10. Section 101 of the said Act is repealed and the following substituted therefor:

101.—(1) Every person who was a master of the Supreme Court before this section comes into force is a master of the Ontario Court (General Division). *New.* Masters

(2) Every master has the jurisdiction conferred by the rules of court in proceedings in the General Division. 1984, c. 11, s. 20 (3). Jurisdiction

(3) Sections 42 to 49 apply with necessary modifications to masters in the same manner as to provincial judges. 1984, c. 11, s. 20 (11), *amended.* Application of ss. 42-49

101a.—(1) Money paid into the Ontario Court (General Division) shall be paid to the Accountant of the Ontario Court and such money and securities in which the money is invested are vested in the Accountant. Money vested in Accountant

(2) Mortgages and other securities taken under an order of the Ontario Court (General Division) and instruments taken as security in respect of a proceeding in the Ontario Court (General Division) shall be taken in the name of the Accountant and shall be deposited in his or her office, except where an order provides otherwise. Security held by Accountant

(3) The Accountant has no duty or obligation in respect of the instruments deposited under subsection (2) except as custodian of the instruments, unless an order of the court provides otherwise. Idem

(4) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Accountant. 1984, c. 11, s. 22, *amended.* Audit by Provincial Auditor

101b.—(1) The finance committee is continued and shall be composed of three persons appointed by the Lieutenant Governor in Council. Finance committee

(2) The finance committee has control and management of the money in the Ontario Court (General Division), the investment of the money and the securities in which it is invested. Management of court funds

(3) Money that is available for investment shall be invested in investments in which the Treasurer of Ontario may invest public money under section 3 of the *Financial Administration Act*. Investment of court funds
R.S.O. 1980, c. 161

Employment
of trust
company

(4) The finance committee may employ a trust company to make the investments or act as custodian of the securities purchased as investments.

Interest

(5) The finance committee may provide for the payment of interest on money paid into the General Division and may fix the rate of interest so paid.

Reserve
funds

(6) The finance committee may establish such reserve funds as it considers necessary. 1984, c. 11, s. 23, *amended*.

11. Subsection 102 (3) of the said Act is amended by striking out “Rules of Civil Procedure” in the third line and inserting in lieu thereof “rules of court”.

12. Section 103 of the said Act is repealed and the following substituted therefor:

Assessment
officers

103.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint assessment officers.

Idem

(2) Every master is an assessment officer.

Jurisdiction

(3) Every assessment officer has jurisdiction to assess costs in a proceeding in any court.

Appeal from
assessment of
costs before
tribunal

(4) Where costs of a proceeding before a tribunal other than a court are to be assessed by an assessment officer,

(a) the rules of court governing the procedure on an assessment of costs apply with necessary modifications; and

(b) an appeal lies to the Ontario Court (General Division) from a certificate of assessment of the costs if an objection was served in respect of the issue appealed in accordance with the rules of court.

13.—(1) Subsection 104 (1) of the said Act is repealed.

(2) Subsection 104 (2) of the said Act is amended by striking out “additional” in the second line.

14.—(1) Subsection 108 (2) of the said Act is amended by striking out “and” where it occurs the second time in the third line and by inserting after “hearing)” in the fourth line “and 153a (where procedures not provided)”.

(2) Subsection 108 (3) of the said Act is amended by striking out “and” in the second line, by inserting after “hearings)” in the third line “and 153a (where procedures not provided)” and by striking out “Offences Court” in the sixth and seventh lines and inserting in lieu thereof “Division”.

15. Subsection 109 (3) of the said Act is repealed and the following substituted therefor:

(3) Only the Court of Appeal, the Unified Family Court and the Ontario Court (General Division), excluding the Small Claims Court, may grant equitable relief, unless otherwise provided.

Jurisdiction
for equitable
relief

16. Section 110 of the said Act is amended by striking out “Supreme Court, the District Court and the Unified Family Court” in the first and second lines and inserting in lieu thereof “Court of Appeal, the Unified Family Court and the Ontario Court (General Division), excluding the Small Claims Court”.

17. Subsection 114 (1) of the said Act is amended by striking out “Supreme Court, the District Court or the Unified Family Court” in the first and second lines and inserting in lieu thereof “Unified Family Court or the Ontario Court (General Division), excluding the Small Claims Court”.

18.—(1) Subsection 118 (1) is repealed and the following substituted therefor:

(1) In this section, “health practitioner” means a person licensed to practise medicine or dentistry in Ontario or any other jurisdiction, a psychologist registered under the *Psychologists Registration Act* or a person certified or registered as a psychologist by another jurisdiction.

“health
practitioner”
defined
R.S.O. 1980,
c. 404

(2) Subsection 118 (2) of the said Act is amended by striking out “medical” in the fourth line and inserting in lieu thereof “health”.

(3) Subsection 118 (5) of the said Act is amended by striking out “medical” in the second line and inserting in lieu thereof “health”.

19. Subsections 120 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) A proceeding in the Small Claims Court shall not be transferred under clause (1) (d) to the Ontario Court (General

Transfer
from Small
Claims Court

Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Idem

(2a) A proceeding in the Small Claims Court shall not be required under subclause (1) (e) (ii) to be asserted by way of counterclaim in a proceeding in the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Motions

(3) The motion shall be made to a judge of the Ontario Court (General Division).

20.—(1) Subsection 121 (1) of the said Act is amended by striking out “a Supreme Court or District Court” in the first line and inserting in lieu thereof “an Ontario Court (General Division)”.

(2) Subsection 121 (2) of the said Act is amended by striking out “Actions in which a claim is made for any of the following kinds of relief shall be heard without a jury:” in the first and second lines and inserting in lieu thereof “The issues of fact and the assessment of damages in an action shall be tried without a jury in respect of a claim for any of the following kinds of relief:”.

(3) Paragraph 3 of the said subsection 121 (2) is amended by striking out “*Family Law Reform Act*” in the first and second lines and inserting in lieu thereof “*Family Law Act, 1986*”.

21. Subsection 122 (2) of the said Act is amended by striking out “Rules of Civil Procedure” in the second line and inserting in lieu thereof “rules of court”.

22. Subsection 124 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Mutual debts may be set off against each other even if they are of a different nature.

23. Clause 129 (b) of the said Act is amended by striking out “*Family Law Reform Act*” in the first line and inserting in lieu thereof “*Family Law Act, 1986*”.

24.—(1) Clause 133 (1) (a) of the said Act is amended by striking out “the” in the first line and inserting in lieu thereof “a”.

(2) Clause 133 (1) (b) of the said Act is amended by striking out “local judge or”.

25.—(1) Subsection 136 (6) of the said Act is amended by striking out “Provincial Court (Family Division) or the Provincial Court (Civil Division)” in the second and third lines and inserting in lieu thereof “Ontario Court (Provincial Division) or the Small Claims Court”.

(2) Subsection 136 (7) of the said Act is amended by striking out “in the Provincial Offences Court where it is” in the second and third lines and inserting in lieu thereof “under the *Provincial Offences Act* in”.

26. Subsection 137 (2) of the said Act is amended by striking out “the Registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “a person designated by the Deputy Attorney General”.

27.—(1) Subsection 150 (1) of the said Act is amended by striking out “Supreme Court” in the first line and in the last line and inserting in lieu thereof in each instance “Ontario Court (General Division)”.

(2) Subsection 150 (3) of the said Act is amended by striking out “Supreme Court” in the fourth line and inserting in lieu thereof “Ontario Court (General Division)”.

28. The said Act is further amended by adding thereto the following sections:

150a.—(1) Unless an Act provides otherwise, orders of a court arising out of a civil proceeding and enforceable in Ontario shall be directed to the sheriff for enforcement.

Civil orders
directed to
sheriffs

(2) A sheriff who believes that the execution of an order may give rise to a breach of the peace may require a police officer to accompany the sheriff and assist in the execution of the order.

Police to
assist sheriff

.

153a. Jurisdiction conferred on a court, a judge or a justice of the peace shall, in the absence of express provision for procedures for its exercise in any Act, regulation or rule, be exercised in any manner consistent with the due administration of justice. 1984, c. 11, s. 62, *amended*.

Where
procedures
not provided

29. Sections 157 and 158 of the said Act are repealed and the following substituted therefor:

Continuation
of
proceedings
in former
courts

157. A proceeding pending in a court set out in column 1 of the Table when this section comes into force is continued in the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	High Court of Justice	Ontario Court (General Division)
2.	District Court	Ontario Court (General Division)
3.	surrogate court	Ontario Court (General Division)
4.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
5.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
6.	Provincial Offences Court	Ontario Court (Provincial Division)
7.	Provincial Court (Civil Division)	Small Claims Court

Former Chief
Judge, etc.

158.—(1) A provincial judge who was a Chief Judge, Associate Chief Judge or senior judge of the Provincial Court (Criminal Division), the Provincial Court (Family Division) or the Provincial Court (Civil Division) immediately before this section comes into force shall continue to hold the office of provincial judge, is entitled to retain the title of Chief Judge, Associate Chief Judge or senior judge, as the case may be, and is entitled to an annual salary equal to the greater of,

- (a) the current annual salary of a provincial judge; or
- (b) the annual salary the judge received immediately before this section comes into force.

Former
Senior
Master

(2) A master who was the Senior Master immediately before this section comes into force shall continue to hold the office of master, is entitled to retain the title of Senior Master and is entitled to an annual salary equal to the greater of,

- (a) the current annual salary of a master; or
- (b) the annual salary the master received immediately before this section comes into force.

Documents
filed

158a. A document filed in court that refers to a court set out in column 1 of the Table to section 160 is not by that reason invalid and shall be deemed to refer to the court set out opposite to it in column 2.

30. Section 159 of the said Act is repealed and the following substituted therefor:

159. Where, by an Act or regulation, jurisdiction is conferred on a particular court set out in column 1 of the Table, the jurisdiction shall be deemed to be conferred on the corresponding court set out in column 2 sitting in the county or district of the court named.

Reference to territorial jurisdiction

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	county or district court (General Division)	Ontario Court
2.	surrogate court (General Division)	Ontario Court
3.	provincial court (family division)	Ontario Court (Provincial Division)
4.	provincial offences court (Provincial Division)	Ontario Court
5.	small claims court	Small Claims Court

31. Section 160 of the said Act is repealed and the following substituted therefor:

160. A reference in an Act, rule or regulation to a court set out in column 1 of the Table is deemed to be a reference to the court set out opposite to it in column 2.

References to courts

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Supreme Court	Ontario Court (General Division)
2.	High Court of Justice	Ontario Court (General Division)
3.	county or district court	Ontario Court (General Division)
4.	District Court	Ontario Court (General Division)
5.	surrogate court	Ontario Court (General Division)
6.	small claims court	Small Claims Court
7.	Provincial Court (Civil Division)	Small Claims Court
8.	provincial court (criminal division)	Ontario Court (Provincial Division)
9.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)

10.	provincial court (family division)	Ontario Court (Provincial Division)
11.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
12.	provincial offences court	Ontario Court (Provincial Division)
13.	Provincial Offences Court	Ontario Court (Provincial Division)

Changes in
terminology

160a.—(1) A reference in any Act, rule or regulation, or order or other court process, to a term set out in column 1 of the Table, or any form thereof, is deemed to refer to the corresponding term set out opposite thereto in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Accountant of the Supreme Court	Accountant of the Ontario Court
2.	administrator <i>ad litem</i>	litigation administrator
3.	certificate of <i>lis pendens</i>	certificate of pending litigation
4.	conduct money	attendance money
5.	guardian <i>ad litem</i>	litigation guardian
6.	judicial district	county or district
7.	local judge of the High Court	judge of the Ontario Court (General Division)
8.	local judge of the Supreme Court	judge of the Ontario Court (General Division)
9.	next friend	litigation guardian
10.	originating motion	application
11.	originating notice	notice of application
12.	praecipe	requisition
13.	provisional judicial district	territorial district
14.	a registrar of a surrogate court	the local registrar of the Ontario Court (General Division)
15.	Rules of Civil Procedure	rules of court
16.	Rules Committee	applicable rules committee
17.	Rules Committee of the Supreme and District Courts	applicable rules committee
18.	Rules of Practice and Procedure of the Supreme Court of Ontario made by the Rules Committee	rules of court
19.	special examiner	official examiner
20.	Surrogate Clerk for Ontario	Estate Registrar for Ontario

21.	taxation of costs	assessment of costs
22.	taxing officer	assessment officer
23.	writ of <i>fiery facias</i>	writ of seizure and sale
24.	writ of summons	statement of claim or notice of action

(2) A reference in any Act, rule or regulation to the surrogate registrar for a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem,
surrogate
registrar for
a county

(3) A reference in any Act, rule or regulation to the clerk of a county or district court of a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem, clerk
of a county

(4) A reference in any Act, rule or regulation to an order, direction or decision filed with the Registrar of the Supreme Court is deemed to be a reference to an order, direction or decision filed with the Ontario Court (General Division).

Idem, order
filed with the
Registrar

160b. Where an Act, rule or regulation provides that a document is to be filed with, certified to, forwarded to or transmitted to the Supreme Court or the Registrar of the Supreme Court for the purpose of an appeal to the Divisional Court, that document shall be filed with, certified to, forwarded to or transmitted to, as the case may be, the Divisional Court.

Documents
filed for
appeal to
Divisional
Court

160c.—(1) A reference in this Act or any other Act, rule or regulation to a county or district for judicial purposes is deemed to be a reference to the corresponding area that, for municipal or territorial purposes, comprises the county, district, union of counties or regional, district or metropolitan municipality.

References to
counties for
judicial
purposes

(2) For the purpose of subsection (1), every city, town and other municipality is united to and forms part of the county in which it is situate.

Separated
municipalities

(3) Subsection (1) is subject to the following:

Exceptions

1. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Haldimand-Norfolk, deemed to be a reference to the following areas:
 - i. All the area of the County of Haldimand as it existed on the 31st day of March, 1974.

- ii. All the area of the County of Norfolk as it existed on the 31st day of March, 1974.
2. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Niagara, deemed to be a reference to the following areas:
 - i. All the area of the County of Lincoln as it existed on the 31st day of December, 1969.
 - ii. All the area of the County of Welland as it existed on the 31st day of December, 1969.
3. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Sudbury and the Territorial District of Sudbury, deemed to be a reference to all the area in The Regional Municipality of Sudbury and in the Territorial District of Sudbury.
4. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of an area described below, deemed to be a reference to all the area in the areas described below:
 - i. All the area in the County of Victoria.
 - ii. All the area in the County of Haliburton.
 - iii. All the area in any part of the townships of Sherborne, McClintock, Livingstone, Lawrence and Nightingale located in Algonquin Park, so long as the part remains part of Algonquin Park.

32. Section 212 of the said Act is repealed.

Commence-
ment

33. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

34. The short title of this Act is the *Courts of Justice Amendment Act, 1989*.

Bill 2

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General



1st Reading May 1st, 1989
2nd Reading June 14th, 1989
3rd Reading
Royal Assent

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTES

The Bill substantially changes the structure of the Ontario courts.

The present structure of the courts is as follows:

1. The Supreme Court of Ontario has two branches, the Court of Appeal and the High Court of Justice. The Supreme Court is a superior court with civil and criminal jurisdiction whose judges are appointed by the federal government.
2. The District Court of Ontario has both civil and criminal jurisdiction but is not a superior court. Its civil jurisdiction is limited by the *Courts of Justice Act, 1984* to claims of less than \$25,000 unless both parties agree to let it hear a claim for a greater amount. Its judges are appointed by the federal government.
3. The Divisional Court is a division of the High Court that hears specified appeals assigned to it by statute and applications for judicial review of a decision of a board or agency. The judges of the High Court are the judges of the Divisional Court.
4. There are four courts presided over by provincial judges, the Provincial Court (Civil Division), the Provincial Court (Family Division), the Provincial Court (Criminal Division) and the Provincial Offences Court. The Provincial Offences Court is usually presided over by justices of the peace and the Provincial Court (Civil Division) is often presided over by part-time deputy judges.
5. The Unified Family Court is a specialized court for family law proceedings in The Regional Municipality of Hamilton-Wentworth. Its judges are appointed by the federal government and are also given the power of provincial judges for their work in the court.

The structure of the Ontario courts proposed by the Bill is as follows:

1. The Court of Appeal will be continued as the final court of appeal for the Province and will be separated from the High Court.
2. There will be a new court, to be called the Ontario Court of Justice, composed of two divisions, the General Division and the Provincial Division.
3. The Ontario Court (General Division) will combine the jurisdiction now exercised by the High Court, the District Court and the surrogate courts. The existing judges of those courts will all become judges of the Ontario Court (General Division). The General Division will be a superior court.
4. The Divisional Court will be continued with no change in its jurisdiction as a branch of the Ontario Court (General Division). All of the judges of the General Division will be judges of the Divisional Court.
5. The Small Claims Court will also be a branch of the Ontario Court (General Division). The monetary limit of the Small Claims Court will be prescribed by regulation. All of the judges of the General Division will be judges of the Small Claims Court. In addition, provincial judges who were formerly in the Provincial Court (Civil Division) will preside over matters in the Small Claims Court and deputy judges will be appointed for three-year renewable terms to preside over matters in the Small Claims Court that do not exceed a prescribed amount.
6. The Ontario Court (Provincial Division) combines the jurisdiction now exercised by the Provincial Court (Criminal Division), the Provincial Court (Family

Division) and the Provincial Offences Court. The existing judges of those courts will all become judges of the Ontario Court (Provincial Division).

7. The Unified Family Court is established as a superior court but is otherwise not changed.

A judge of the General Division will be appointed as Chief Judge of the Ontario Court to manage judicial resources for the General Division of the Ontario Court of Justice. A provincial judge will be appointed as Chief Judge of the Ontario Court (Provincial Division) to manage judicial resources for the Provincial Division.

The Province will be divided into regions for judicial purposes, with the number and area of the regions to be prescribed by regulation. A judge of the General Division will be appointed as regional senior judge of the General Division for each region to manage judicial resources for the General Division in the region, subject to the authority of the Chief Judge of the Ontario Court. A provincial judge will be appointed as regional senior judge of the Provincial Division for each region to manage judicial resources for the Provincial Division in the region, subject to the authority of the Chief Judge of the Ontario Court (Provincial Division).

The Chief Judge of the Ontario Court (Provincial Division) and the regional senior judges of the Provincial Division will be appointed to their administrative positions for five-year terms, after which they will return to being provincial judges.

The Ontario Courts Advisory Council will be replaced by the Ontario Courts Management Committee. In addition, each region will have a Regional Courts Management Committee consisting of the regional senior judges, the regional director of courts administration, the regional director of Crown attorneys and representatives of the regional bar and the public.

The Bill will also restructure rule-making for the courts. Part V of the existing Act establishes the Rules Committee of the Supreme and District Courts and provides for the making of rules of practice and procedure for civil proceedings in those courts. The Bill will establish three separate rules committees, the Civil Rules Committee, the Family Rules Committee and the Criminal Rules Committee, each to make rules in their respective areas.

Some of the other changes to the Act are as follows:

1. The number of judges of the Court of Appeal will be fixed by regulation rather than by statute.
2. Every judge of the General Division must be assigned to a particular region and there must be at least one judge of the General Division assigned to each county or district.
3. The judges of the Ontario Court of Justice are required to meet at least once each year and the judges of the Ontario Court in each region are required to meet at least once in each year to consider the Act, the rules and the administration of justice.
4. A limit on costs in the Small Claims Court is set at 15 per cent of the amount claimed unless the court considers it necessary in the interests of justice to penalize a person for unreasonable behaviour in the proceeding.
5. The Act now provides that the Province will pay \$3,000 each year to federally appointed judges. Although these payments will continue for judges appointed before the Bill comes into force, no payments will be made to future appointees.
6. There is no provision for the appointment of new masters.

7. The Lieutenant Governor in Council will be permitted to prescribe the form of the gown worn in court by all judges appointed after the Bill comes into force.
8. All Ontario Court and Unified Family Court judges may be addressed as "Your Honour", subject to the right of former High Court judges to elect to be addressed according to the old practice.
9. Errors in the Act are corrected with respect to jury trials (section 121) and setting off mutual debts (section 124). The medical examination provision of the Act (section 118) is amended to permit a court to order an examination by a registered psychologist.
10. The salaries of former Chief Judges, Associate Chief Judges and senior judges of the provincial courts and of the Senior Master are protected and they are permitted to retain their titles.
11. The transitional provisions and complementary amendments in the Act are amended to ensure the continuation of existing court proceedings in the new courts and to deem references to courts in other statutes to be references to the new courts.

The Bill is accompanied by the *Court Reform Statute Law Amendment Act, 1989*, which repeals the *Sheriffs Act* and makes consequential amendments to 52 other statutes.

Bill 2**1989****An Act to amend the Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:

1. In this Act,

Definitions

“action” means a civil proceeding that is not an application and includes a proceeding commenced by,

- (a) claim,
- (b) statement of claim,
- (c) notice of action,
- (d) counterclaim,
- (e) crossclaim,
- (f) third or subsequent party claim, or
- (g) divorce petition or counterpetition;

“application” means a civil proceeding that is commenced by notice of application or by application;

“defendant” means a person against whom an action is commenced;

“hearing” includes a trial;

“motion” means a motion in a proceeding or an intended proceeding;

“order” includes a judgment or decree;

“plaintiff” means a person who commences an action;

“region” means a region prescribed under section 92a. 1984, c. 11, s. 1, *amended*.

2. Parts I and II, Part III, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, section 1, 1985, chapter 1, section 4, 1986, chapter 7, section 15 and 1987, chapter 1, sections 1, 2 and 3, Part IV, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, sections 2, 3, 4 and 5 and 1987, chapter 1, sections 4, 5 and 6 and Part V, as amended by the Statutes of Ontario, 1984, chapter 64, sections 6 and 7, of the said Act are repealed and the following substituted therefor:

PART I

COURT OF APPEAL FOR ONTARIO

Court of
Appeal

2.—(1) The branch of the Supreme Court of Ontario named the Court of Appeal for Ontario is continued as a superior court of record named the Court of Appeal for Ontario.

Idem

(2) In exercising its jurisdiction, the Court of Appeal has all the power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2, *amended*.

Composition
of court

3.—(1) The Court of Appeal shall consist of,

- (a) the Chief Justice of Ontario, who shall be president of the court;
- (b) the Associate Chief Justice of Ontario; and
- (c) such number of other judges as is fixed under subsection (2), to be called justices of appeal. 1984, c. 11, s. 3 (1), *amended*.

Number of
judges

(2) The Lieutenant Governor in Council may by regulation fix the number of judges of the Court of Appeal who are in addition to the Chief Justice and the Associate Chief Justice.

Idem

(3) A reduction in the number of judges does not affect appointments existing at the time of the reduction. *New*.

Additional
judges

(4) There shall be such additional offices of judge of the Court of Appeal as are from time to time required, to be held by Chief Justices of Ontario and Associate Chief Justices of

Ontario who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Court of Appeal. 1984, c. 11, s. 6 (1), *amended*. R.S.C. 1985, c. J-1

(5) There shall be such additional offices of supernumerary judge of the Court of Appeal as are from time to time required, to be held by judges of the Court of Appeal who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of the court. 1984, c. 11, s. 6 (3), *amended*. Supernumerary judges

4.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Judge of the Ontario Court, may assign a judge of the Ontario Court (General Division) to perform the work of a judge of the Court of Appeal. 1984, c. 11, s. 9 (2), *amended*. Assignment of judges from General Division

(2) A judge of the General Division is, by virtue of his or her office, a judge of the Court of Appeal and has all the jurisdiction, power and authority of a judge of the Court of Appeal. 1984, c. 11, s. 8, *amended*. General Division judges

5.—(1) The Chief Justice of Ontario has general supervision and direction over the sittings of the Court of Appeal and the assignment of the judicial duties of the court. 1984, c. 11, s. 18 (5). Powers and duties of Chief Justice

(2) If the Chief Justice of Ontario is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by the Associate Chief Justice of Ontario. Absence of Chief Justice

(3) If the Chief Justice of Ontario and the Associate Chief Justice of Ontario are both absent from Ontario or for any reason unable to act, the powers and duties of the Chief Justice shall be exercised and performed by a judge of the Court of Appeal designated by the Chief Justice or Associate Chief Justice. 1984, c. 11, s. 3 (2), *amended*. Absence of Associate Chief Justice

6.—(1) An appeal lies to the Court of Appeal from, Court of Appeal jurisdiction

- (a) an order of the Divisional Court, on a question that is not a question of fact alone, with leave as provided in the rules of court;
- (b) a final order of a judge of the Ontario Court (General Division), except an order referred to in clause 18 (1) (a);

- (c) a certificate of assessment of costs issued in a proceeding in the Court of Appeal, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 17 (1), *amended*.

Combining of
appeals from
other courts

(2) The Court of Appeal has jurisdiction to hear and determine an appeal that lies to the Divisional Court or the Ontario Court (General Division) if an appeal in the same proceeding lies to and is taken to the Court of Appeal.

Idem

(3) The Court of Appeal may, on motion, transfer an appeal that has already been commenced in the Divisional Court or the Ontario Court (General Division) to the Court of Appeal for the purpose of subsection (2). 1984, c. 11, s. 17 (2), *amended*.

Composition
of court for
hearings

7.—(1) A proceeding in the Court of Appeal shall be heard and determined by not fewer than three judges sitting together, and always by an uneven number of judges. 1984, c. 11, s. 18 (1), *amended*.

Idem,
motions

(2) A motion in the Court of Appeal and an appeal under clause 6 (1) (c) shall be heard and determined by one judge.

Idem

(3) Subsection (2) does not apply to a motion for leave to appeal, a motion to quash an appeal or any other motion that is specified by the rules of court.

Idem

(4) A judge assigned to hear and determine a motion may adjourn the motion to a panel of the Court of Appeal.

Idem

(5) A panel of the Court of Appeal may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 18 (3), *amended*.

References to
Court of
Appeal

8.—(1) The Lieutenant Governor in Council may refer any question to the Court of Appeal for hearing and consideration.

Opinion of
court

(2) The court shall certify its opinion to the Lieutenant Governor in Council, accompanied by a statement of the reasons for it, and any judge who differs from the opinion may certify his or her opinion and reasons in the same manner.

Submissions
by Attorney
General

(3) On the hearing of the question, the Attorney General of Ontario is entitled to make submissions to the court.

Idem

(4) The Attorney General of Canada shall be notified and is entitled to make submissions to the court if the question relates to the constitutional validity or constitutional applica-

bility of an Act, or of a regulation or by-law made under an Act, of the Parliament of Canada or the Legislature.

(5) The court may direct that any person interested, or any one or more persons as representatives of a class of persons interested, be notified of the hearing and be entitled to make submissions to the court. Notice

(6) If an interest affected is not represented by counsel, the court may request counsel to argue on behalf of the interest and the reasonable expenses of counsel shall be paid by the Treasurer of Ontario. Appointment of counsel

(7) The opinion of the court shall be deemed to be a judgment of the court and an appeal lies from it as from a judgment in an action. 1984, c. 11, s. 19. Appeal



PART II

ONTARIO COURT OF JUSTICE

9.—(1) The Ontario Court of Justice is established. Ontario Court

(2) The Ontario Court shall consist of two divisions, the General Division and the Provincial Division. *New.* Divisions

ONTARIO COURT (GENERAL DIVISION)

 10.—(1) The branch of the Supreme Court of Ontario named the High Court of Justice for Ontario is continued as a superior court of record named the Ontario Court (General Division). General Division 

(2) The General Division has all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2 (1), *amended.* Idem

11.—(1) The General Division shall consist of, Composition of General Division

- (a) the Chief Judge of the Ontario Court, who shall be president of the Ontario Court;
- (b) a regional senior judge of the General Division for each region;
- (c) a senior judge of the General Division for the Unified Family Court; and

- (d) such number of judges of the General Division as is fixed under clause 52 (1) (a). 1984, c. 11, s. 4 (1), *amended*.

Additional
judges

R.S.C. 1985,
c. J-1

(2) There shall be such additional offices of judge of the General Division as are from time to time required, to be held by Chief Judges of the Ontario Court and regional senior judges of the General Division who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Ontario Court. 1984, c. 11, s. 6 (1), *amended*.

Super-
numerary
judges

(3) There shall be such additional offices of supernumerary judge of the General Division as are from time to time required, to be held by judges of the General Division who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of that division. 1984, c. 11, s. 6 (3), *amended*.

Assignment
of judges
from Court
of Appeal

12.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Judge of the Ontario Court, may assign a judge of the Court of Appeal to perform the work of a judge of the General Division. 1984, c. 11, s. 9 (1), *amended*.

Court of
Appeal
judges

(2) A judge of the Court of Appeal is, by virtue of his or her office, a judge of the General Division and has all the jurisdiction, power and authority of a judge of the General Division. 1984, c. 11, s. 8, *amended*.

Powers and
duties of
Chief Judge
of Ontario
Court

13.—(1) The Chief Judge of the Ontario Court shall direct and supervise the sittings of the Ontario Court (General Division) and the assignment of its judicial duties.

Regional
senior
judges,
General
Division

(2) A regional senior judge of the General Division shall, subject to the authority of the Chief Judge of the Ontario Court, exercise the powers and perform the duties of the Chief Judge in respect of the General Division in his or her region.

Delegation

(3) A regional senior judge of the General Division may delegate to a judge of the General Division in his or her region the authority to exercise specified functions. *New*.

Absence of
Chief Judge
of Ontario
Court

(4) If the Chief Judge of the Ontario Court is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the General Division designated by the Chief Judge of the Ontario Court. 1984, c. 11, s. 4 (3), *amended*.

Absence of
regional
senior judge
of General
Division

(5) The powers and duties of a regional senior judge of the General Division who is absent from Ontario or is for any rea-

son unable to act shall be exercised and performed by a judge of the General Division designated by the Chief Judge of the Ontario Court.

➡ (6) The Chief Judge of the Ontario Court may hold meetings with the regional senior judges of the General Division in order to consider any matters concerning sittings of the General Division and the assignment of its judicial duties. *New.*

Meetings
with regional
senior judges

⬆ **14.—**(1) The Chief Judge of the Ontario Court shall assign every judge of the General Division to a region.

Judges
assigned to
regions

(2) There shall be at least one judge of the General Division assigned to each county and district.

At least one
judge in each
county

(3) No judge of the General Division who was a judge of the High Court of Justice or the District Court of Ontario before this section comes into force shall be assigned without his or her consent to a region other than the region in which he or she resided immediately before this section comes into force.

High Court
and District
Court judges

(4) Subsections (1) to (3) do not prevent the temporary assignment of a judge to a location anywhere in Ontario. *New.*

Idem

15. A proceeding in the General Division shall be heard and determined by one judge of the General Division. 1984, c. 11, s. 14 (1), *amended.*

Composition
of court for
hearings

16. An appeal lies to the General Division from,

Appeals to
General
Division

- (a) an interlocutory order of a master;
- (b) a certificate of assessment of costs issued in a proceeding in the General Division, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 13 (2), *amended.*

DIVISIONAL COURT

17.—(1) There shall be a branch of the General Division to be known as the Divisional Court consisting of the Chief Judge of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Judge designates from time to time.

Divisional
Court

(2) Every judge of the General Division is also a judge of the Divisional Court. 1984, c. 11, s. 5, *amended.*

Jurisdiction
of judges

Divisional
Court
jurisdiction

18.—(1) An appeal lies to the Divisional Court from,

- (a) a final order of a judge of the General Division,
 - (i) for a single payment of not more than \$25,000, exclusive of costs,
 - (ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,
 - (iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or
 - (iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii);
- (b) an interlocutory order of a judge of the General Division, with leave as provided in the rules of court;
- (c) a final order of a master. 1984, c. 11, s. 15 (1), *amended*.

Combining of
appeals from
General
Division

(2) The Divisional Court has jurisdiction to hear and determine an appeal that lies to the General Division if an appeal in the same proceeding lies to and is taken to the Divisional Court.

Idem

(3) The Divisional Court may, on motion, transfer an appeal that has already been commenced in the General Division to the Divisional Court for the purpose of subsection (2). 1984, c. 11, s. 15 (2), *amended*.

Appeal from
interlocutory
orders

(4) No appeal lies from an interlocutory order of a judge of the General Division made on an appeal from an interlocutory order of the Provincial Division. 1984, c. 11, s. 36 (4), *amended*.

Appeals
heard in
regions

19.—(1) An appeal to the Divisional Court shall be heard in the region in which the order appealed from was made, unless the parties agree otherwise.

(2) Any other proceeding in the Divisional Court may be brought in any region. *New.*

Other proceedings in any region

20.—(1) A proceeding in the Divisional Court shall be heard and determined by three judges sitting together.

Composition of court for hearings

(2) A proceeding in the Divisional Court may be heard and determined by one judge where the proceeding,

Idem

- (a) is an appeal under clause 18 (1) (c);
- (b) is an appeal under section 30 from a provincial judge or a deputy judge presiding over the Small Claims Court; or
- (c) is in a matter that the Chief Judge of the Ontario Court or a judge designated by the Chief Judge is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard and determined by one judge.

(3) A motion in the Divisional Court shall be heard and determined by one judge, unless otherwise provided by the rules of court.

Idem, motions

(4) A judge assigned to hear and determine a motion may adjourn it to a panel of the Divisional Court.

Idem

(5) A panel of the Divisional Court may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 16, *amended*.

Idem

SMALL CLAIMS COURT

21.—(1) There shall be a branch of the General Division to be known as the Small Claims Court consisting of the Chief Judge of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Judge designates from time to time.

Small Claims Court

(2) Every judge of the General Division is also a judge of the Small Claims Court. *New.*

Jurisdiction of judges

22.—(1) The Small Claims Court,

Jurisdiction

- (a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed the prescribed amount exclusive of interest and costs; and

- (b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed the prescribed amount. 1984, c. 11, s. 78 (1), *amended*.

Transfer
from General
Division

(2) An action in the General Division may be transferred to the Small Claims Court by the local registrar of the General Division on requisition with the consent of all parties filed before the trial commences if,

- (a) the only claim is for the payment of money or the recovery of possession of personal property; and
- (b) the claim is within the jurisdiction of the Small Claims Court.

Idem

(3) An action transferred to the Small Claims Court shall be titled and continued as if it had been commenced in that court. 1984, c. 11, s. 84, *amended*.

Composition
of court for
hearings

23.—(1) A proceeding in the Small Claims Court shall be heard and determined by one judge of the General Division.

Provincial
judge or
deputy judge
may preside

(2) A proceeding in the Small Claims Court may also be heard and determined by,

- (a) a provincial judge who was assigned to the Provincial Court (Civil Division) immediately before this section comes into force; or
- (b) a deputy judge appointed under section 31.

Where
deputy judge
not to
preside

(3) A deputy judge shall not hear and determine an action,

- (a) for the payment of money in excess of the prescribed amount; or
- (b) for the recovery of possession of personal property exceeding the prescribed amount in value. *New.*

Summary
hearings

24. The Small Claims Court shall hear and determine in a summary way all questions of law and fact and may make such order as is considered just and agreeable to good conscience. 1984, c. 11, s. 78 (3), *amended*.

Representation

25. A party may be represented in a proceeding in the Small Claims Court by counsel or an agent but the court may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party if it finds that such person is not compe-

tent properly to represent the party or does not understand and comply at the hearing with the duties and responsibilities of an advocate. 1984, c. 11, s. 79, *amended*.

26.—(1) Subject to subsections (3) and (4), the Small Claims Court may admit as evidence at a hearing and act upon any oral testimony and any document or other thing so long as the evidence is relevant to the subject-matter of the proceeding, but the court may exclude anything unduly repetitious. Evidence

(2) Subsection (1) applies whether or not the evidence is given or proven under oath or affirmation or admissible as evidence in any other court. Idem

(3) Nothing is admissible in evidence at a hearing, Idem

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any Act.

(4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding. Conflicts

(5) A copy of a document or any other thing may be admitted as evidence at a hearing if the presiding judge is satisfied as to its authenticity. 1984, c. 11, s. 80, *amended*. Copies

27. The Small Claims Court may order the times and the proportions in which money payable under an order of the court shall be paid. 1984, c. 11, s. 81, *amended*. Instalment orders

28. An award of costs in the Small Claims Court, other than disbursements, shall not exceed 15 per cent of the amount claimed or the value of the property sought to be recovered unless the court considers it necessary in the interests of justice to penalize a party, counsel or agent for unreasonable behaviour in the proceeding. *New*. Limit on costs

29. Orders of the Small Claims Court shall be directed to a bailiff appointed under subsection 32 (1) for enforcement, unless otherwise provided by the rules of court. 1984, c. 11, s. 82, *amended*. Enforcement of orders

30. An appeal lies to the Divisional Court from a final order of the Small Claims Court in an action, Appeals

- (a) for the payment of money in excess of \$500, excluding costs; or
- (b) for the recovery of possession of personal property exceeding \$500 in value. 1984, c. 11, s. 83, *amended*.

Deputy
judges

31.—(1) A regional senior judge of the General Division may, with the approval of the Attorney General, appoint a barrister and solicitor to act as a deputy judge of the Small Claims Court for a term of three years.

Idem

(2) A regional senior judge of the General Division may renew the appointment of a deputy judge for one or more three-year terms.

Idem

(3) The appointment of a person who was a deputy judge immediately before this section comes into force is deemed to be renewed under subsection (2) on the day this section comes into force. *New*.

Clerk and
bailiff of
Small Claims
Court

32.—(1) There shall be a clerk and one or more bailiffs for each division of the Small Claims Court who shall be appointed by the Lieutenant Governor in Council.

Idem

(2) With the approval of the Deputy Attorney General or the person designated by the Deputy Attorney General, every clerk and bailiff of the Small Claims Court in a division that is not designated under clause 52 (1) (g) may appoint in writing a deputy who may exercise and perform all the powers and duties of the clerk or bailiff.

Referee

(3) The Lieutenant Governor in Council may appoint a referee for a division of the Small Claims Court. 1984, c. 11, s. 86 (4, 5), *amended*.

PROVINCIAL DIVISION

Provincial
Division

33. The Provincial Court (Criminal Division), the Provincial Court (Family Division) and the Provincial Offences Court are amalgamated and continued as a court of record named the Ontario Court (Provincial Division). *New*.

Composition
of Provincial
Division

34. The Provincial Division shall consist of,

- (a) the Chief Judge of the Provincial Division appointed under subsection 41 (3), who shall be president of the Provincial Division;

- (b) a regional senior judge of the Provincial Division appointed under subsection 41 (4) for each region; and
- (c) such provincial judges as are appointed under subsection 41 (1). *New.*

35.—(1) The Chief Judge of the Provincial Division shall direct and supervise the sittings of the Provincial Division and the assignment of its judicial duties. 1984, c. 11, s. 63 (5), *amended.*

Powers and duties of Chief Judge of Provincial Division

(2) A regional senior judge of the Provincial Division shall, subject to the authority of the Chief Judge of the Provincial Division, exercise the powers and perform the duties of the Chief Judge of the Provincial Division in his or her region.

Regional senior judges, Provincial Division

(3) A regional senior judge of the Provincial Division may delegate to a judge of the Provincial Division in his or her region the authority to exercise specified functions. *New.*

Delegation

(4) If the Chief Judge of the Provincial Division is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the Provincial Division designated by the Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (7), *amended.*

Absence of Chief Judge of Provincial Division

(5) The powers and duties of a regional senior judge of the Provincial Division who is absent from Ontario or is for any reason unable to act shall be exercised and performed by a judge of the Provincial Division designated by the Chief Judge of the Provincial Division.

Absence of regional senior judge of Provincial Division

➡ (6) The Chief Judge of the Provincial Division may hold meetings with the regional senior judges of the Provincial Division in order to consider any matters concerning sittings of the Provincial Division and the assignment of its judicial duties. *New.* ⬆

Meetings with regional senior judges

36.—(1) The Chief Judge of the Ontario Court (Provincial Division) shall assign every provincial judge to a region.

Judges assigned to regions

(2) Subsection (1) does not prevent the temporary assignment of a provincial judge to a location anywhere in Ontario. *New.*

Idem

37.—(1) A provincial judge has the power and authority of two or more justices of the peace when sitting in the Provincial Division and shall exercise the powers and perform

Criminal jurisdiction

the duties that any Act of the Parliament of Canada confers on a provincial court judge when sitting in the Provincial Division. 1984, c. 11, s. 67 (1), *amended*.

Provincial
offences and
family
jurisdiction

R.S.O. 1980,
c. 400

1986, c. 4

R.S.O. 1980,
c. 68

1984, c. 55

Youth court
jurisdiction

R.S.C. 1985,
c. Y-1

(2) The Provincial Division shall perform any function assigned to it by or under the *Provincial Offences Act*, the *Family Law Act, 1986*, the *Children's Law Reform Act*, the *Child and Family Services Act, 1984* or any other Act. 1984, c. 11, s. 69, s. 75 (1) (a), (k), *amended*.

(3) The Provincial Division is a youth court for the purposes of the *Young Offenders Act (Canada)*. 1984, c. 11, s. 67 (2), s. 75 (1) (b), *amended*.

Judge to
preside

38.—(1) A proceeding in the Provincial Division shall be heard and determined by one judge of the Provincial Division. 1984, c. 11, s. 66 (2), s. 74 (2), *amended*.

Justice of the
peace may
preside

R.S.O. 1980,
c. 400

(2) A justice of the peace may preside over the Provincial Division in a proceeding under the *Provincial Offences Act*. 1984, c. 11, s. 68 (2), *amended*.

Appeals

39.—(1) If no provision is made concerning an appeal from an order of the Provincial Division, an appeal lies to the General Division.

Exception

R.S.C. 1985,
c. C-46

(2) Subsection (1) does not apply to a proceeding under the *Criminal Code (Canada)* or the *Provincial Offences Act*. 1987, c. 1, s. 6, *amended*.

Penalty for
disturbance
outside
courtroom

40. Any person who knowingly disturbs or interferes with a proceeding in the Provincial Division without reasonable justification while outside the courtroom is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. 1984, c. 11, s. 72, *amended*.

PROVINCIAL JUDGES

Appointment
of provincial
judges

41.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such provincial judges as are considered necessary.

Qualifications

(2) No person shall be appointed as a provincial judge unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years. 1984, c. 11, s. 52.

(3) The Lieutenant Governor in Council may appoint a provincial judge as Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (1), *amended*. Chief Judge

(4) The Lieutenant Governor in Council may appoint a provincial judge to be the regional senior judge of the Provincial Division for each region. Regional senior judges

(5) The Chief Judge of the Provincial Division and the regional senior judges of the Provincial Division shall hold office for five years. Term of office

(6) If a successor is not appointed within five years, the Chief Judge or a regional senior judge shall continue in office until the successor is appointed, but in no case shall the Chief Judge or regional senior judge hold office for more than seven years. Idem

(7) A Chief Judge or a regional senior judge whose term of office expires under subsection (5) or (6) shall continue to hold the office of provincial judge and is entitled to an annual salary equal to the greater of, Former Chief Judge, etc.

(a) the current annual salary of a provincial judge; or

(b) the annual salary he or she received immediately before ceasing to be Chief Judge or regional senior judge.

(8) A Chief Judge or regional senior judge whose term of office expires under subsection (5) or (6) shall not be reappointed to the same position. *New*. Chief Judge, etc., not to be reappointed

42.—(1) A provincial judge shall devote his or her whole time to the performance of his or her duties as a judge, except as authorized by the Lieutenant Governor in Council. Other employment

(2) Despite subsection (1), a provincial judge who, before the 1st day of January, 1985, had the consent of the Attorney General to act as an arbitrator or conciliator may continue to so act. 1984, c. 11, s. 53, *amended*. Idem

43.—(1) Every provincial judge shall retire upon attaining the age of sixty-five years. Retirement

(2) Despite subsection (1), a provincial judge appointed as a full-time magistrate, judge of a juvenile and family court or master before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years. Idem

Continuation
of judges in
office

(3) A judge who has attained the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in office as a full-time or part-time judge until he or she attains the age of seventy years.

Idem

(4) A judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years.

Continuation
of regional
senior judge
in office

(5) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem

(6) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of seventy years may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years.

Continuation
of
Co-ordinator
in office
1989, c. 46

(7) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of sixty-five years, he or she may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem

(8) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of seventy years, he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. *New.*

Continuation
in office of
Chief Judge
of Provincial
Division

(9) Subject to subsections 41 (5) and (6), if the Chief Judge of the Provincial Division is in office upon attaining the age for retirement under subsection (1) or (2), he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. 1984, c. 11, s. 54, *amended*.

Resignation
of judge

44.—(1) A provincial judge may at any time resign from his or her office by delivering a signed letter of resignation to the Attorney General.

Resignation
as Chief
Judge, etc.

(2) A Chief Judge or a regional senior judge may, before the expiry of his or her term of office under subsection 41 (5)

or (6), elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General.



(3) The Co-ordinator of Justices of the Peace may, before the expiry of his or her term of office under subsection 13 (2) or (3) of the *Justices of the Peace Act, 1989*, elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General. *New.*

Resignation
of
Co-ordinator
1989, c. 46



(4) A resignation or election under this section takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day. 1984, c. 11, s. 55, s. 65, *amended.*

Effective
date

45.—(1) A provincial judge may be removed from office before attaining retirement age only if,

Removal for
cause

- (a) a complaint regarding the judge has been made to the Judicial Council; and
- (b) the removal is recommended by an inquiry held under section 49 on the ground that the judge has become incapacitated or disabled from the due execution of his or her office by reason of,
 - (i) infirmity,
 - (ii) conduct that is incompatible with the execution of his or her office, or
 - (iii) having failed to perform the duties of his or her office.

(2) An order removing a provincial judge from office under this section may be made by the Lieutenant Governor on the address of the Legislative Assembly. 1984, c. 11, s. 56, *amended.*

Order for
removal

46.—(1) The Judicial Council for Provincial Judges is continued as the Ontario Judicial Council and shall be composed of,

Judicial
Council

- (a) the Chief Justice of Ontario, who shall preside over the Ontario Judicial Council;
- (b) the Associate Chief Justice of Ontario;
- (c) the Chief Judge of the Ontario Court;

- (d) the Chief Judge of the Ontario Court (Provincial Division);
- (e) the Treasurer of The Law Society of Upper Canada; and
- (f) not more than two other persons appointed by the Lieutenant Governor in Council.

Quorum (2) A majority of members of the Judicial Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Judicial Council.

Staff
R.S.O. 1980,
c. 418 (3) Such officers and employees of the Judicial Council as are considered necessary may be appointed under the *Public Service Act*.

Expert
assistance (4) The Judicial Council may engage persons, including counsel, to assist it in its investigations. 1984, c. 11, s. 57, *amended*.

Transition (5) An investigation commenced by the Judicial Council before this section comes into force shall be continued by the Judicial Council as it was constituted before this section comes into force. *New*.

Functions **47.**—(1) The functions of the Judicial Council are,

- (a) to consider all proposed appointments of provincial judges and make a report on them to the Attorney General;
- (b) to receive and investigate complaints against provincial judges.

Liability for
damages (2) No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer of it or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty. 1984, c. 11, s. 58.

Investigation
of complaints **48.**—(1) Where the Judicial Council receives a complaint against a provincial judge, it shall take such action to investigate the complaint as it considers advisable.

Referral to
Chief Judge (2) The Judicial Council may transmit those complaints it considers appropriate,

- (a) concerning provincial judges to the Chief Judge of the Provincial Division; and

- (b) concerning masters to the Chief Judge of the Ontario Court.

(3) The proceedings of the Judicial Council shall not be public, but it may inform the Attorney General respecting matters that it has investigated and the Attorney General may make public the fact that an investigation has been undertaken.

Proceedings
not public

(4) The Judicial Council may order that information or documents relating to its proceedings not be published or disclosed except as required by law.

Prohibiting
publication

(5) The Judicial Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers
R.S.O. 1980,
c. 411

(6) When the Judicial Council has dealt with a complaint regarding a provincial judge, it shall inform the following persons of its disposition of the complaint:

Notice of
disposition

1. The person who made the complaint.
2. If the complaint was brought to the attention of the judge, the judge.

(7) The Judicial Council may report its opinion regarding the complaint to the Attorney General and may recommend,

Report and
recommen-
dations

- (a) that an inquiry be held under section 49;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the investigation.

(8) A copy of a report made under subsection (7) shall be given to the judge.

Copy to
judge

(9) The Judicial Council shall not make a report under subsection (7) unless the judge was notified of the investigation and given an opportunity to be heard and to produce evidence on his or her behalf.

Right to be
heard

(10) When the Judicial Council makes a report to the Attorney General under subsection (7), the Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. 1984, c. 11, s. 59, *amended*.

Publication
of report

Inquiry

49.—(1) The Lieutenant Governor in Council may appoint a judge of the General Division to inquire into the question whether a provincial judge should be removed from office.

Powers

R.S.O. 1980,
c. 411

(2) The *Public Inquiries Act* applies to an inquiry under subsection (1).

Report

(3) The report of the inquiry may recommend,

- (a) that the judge be removed from office;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the inquiry.

Tabling of
report

(4) The report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session. 1984, c. 11, s. 60, *amended*.

Provincial
Judges
Remuneration
Commission

50.—(1) The committee known as the Ontario Provincial Courts Committee is continued as the Provincial Judges Remuneration Commission.

Composition
of
Commission

(2) The Commission shall be composed of the following three members:

1. One appointed jointly by the associations representing provincial judges.
2. One appointed by the Lieutenant Governor in Council.
3. One, who shall head the Commission, appointed jointly by the bodies referred to in paragraphs 1 and 2.

Function

(3) The function of the Provincial Judges Remuneration Commission is to inquire into and make recommendations to the Lieutenant Governor in Council respecting any matter relating to the remuneration, allowances and benefits of provincial judges, including the matters referred to in clauses 52 (1) (b) and (c).

Annual
report

(4) The Commission shall make an annual report of its activities to the Lieutenant Governor in Council.

Tabling of
recommen-
dations

(5) Recommendations of the Commission and its annual report shall be laid before the Legislative Assembly if it is in

session or, if not, within fifteen days of the commencement of the next session. 1984, c. 11, s. 88, *amended*.

MISCELLANEOUS

51.—(1) The judges of the Ontario Court of Justice shall meet at least once in each year, on a day fixed by the Chief Judge of the Ontario Court, in order to consider this Act, the rules of court and the administration of justice generally. Meeting of judges

(2) The judges shall report their recommendations to the Attorney General. 1984, c. 11, s. 10, *amended*. Idem

(3) The judges of the Ontario Court of Justice in each region shall meet at least once in each year, on a day fixed by the regional senior judge of the General Division, in order to consider this Act, the rules of court and the administration of justice in the region generally. Regional meeting of judges

(4) The judges shall report their recommendations to the Attorney General. *New*. Idem

52.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) fixing the number of judges of the General Division who are in addition to the Chief Judge, the regional senior judges and the Senior Judge for the Unified Family Court;
- (b) fixing the remuneration of provincial judges and masters;
- (c) providing for the benefits to which provincial judges and masters are entitled, including,
 - (i) leave of absence and vacations,
 - (ii) sick leave credits and payments in respect of those credits,
 - (iii) pension benefits for provincial judges, masters and their surviving spouses and children;
- (d) prescribing territorial divisions for the Small Claims Court; ▲
- (e) prescribing the maximum amount of a claim in the Small Claims Court for the purposes of subsection 22 (1);

R.S.O. 1980,
c. 418

(f) prescribing the maximum amount of a claim over which a deputy judge may preside for the purposes of subsection 23 (3);

(g) providing for the retention of fees by clerks, bailiffs and referees of the Small Claims Court who are not civil servants under the *Public Service Act* and designating divisions where clerks, bailiffs and referees of the Small Claims Court may be appointed to a position as a civil servant under that Act;

(h) prescribing the duties of clerks, bailiffs and referees of the Small Claims Court;

(i) prescribing for each region the minimum number of judges of the General Division and of the Provincial Division who are to be assigned to that region. 1984, c. 11, s. 4 (2), s. 20 (4), s. 87 (1), *amended*.

Idem

(2) A reduction in the number of judges of the General Division under clause (1) (a) does not affect appointments existing at the time of the reduction. 1984, c. 11, s. 4 (2), *amended*.

Contributions

(3) Regulations made under clause (1) (c) may require judges and masters to contribute from their salaries part of the costs of benefits and may fix the amount of the contributions.

Application
of
R.S.O. 1980,
c. 419

(4) A regulation made under clause (1) (c) may modify or exclude the application of the *Public Service Superannuation Act*.

Application
of regulations

(5) A regulation made under subsection (1) may be general or particular in its application. 1984, c. 11, s. 20 (5-7), s. 87 (2-4), *amended*.

PART III

UNIFIED FAMILY COURT

Unified
Family Court

53. The Unified Family Court is continued as a superior court of record in and for The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 38, *amended*.

Composition
of court

54.—(1) The Unified Family Court shall be presided over by,

- (a) a judge of the Ontario Court (General Division) appointed as senior judge for the Unified Family Court; or
- (b) a judge of the Ontario Court (General Division),

who is authorized under subsection (3) to exercise the jurisdiction of a judge of the Ontario Court (Provincial Division).

(2) The senior judge for the Unified Family Court shall supervise and direct the sittings and the assignment of the judicial duties of the Unified Family Court. Duties of senior judge

(3) The Lieutenant Governor in Council may authorize a judge of the General Division to exercise the jurisdiction of a judge of the Provincial Division. Authority for Provincial Division matters

(4) A judge who may preside over the Unified Family Court shall exercise his or her jurisdiction as a judge of the General Division or a judge of the Provincial Division in the matters in which the General Division or the Provincial Division or a judge of one of them has jurisdiction under the statutory provisions set out in the Schedule to this Part. Exercise of existing jurisdiction
1984, c. 11, s. 39; 1987, c. 1, s. 1, *amended*.

55.—(1) Proceedings taken in a court in The Regional Municipality of Hamilton-Wentworth under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, shall be commenced and titled in the Unified Family Court and the jurisdiction of the court shall be exercised in the Unified Family Court. Proceedings in Unified Family Court

(2) A motion for interim relief under the *Divorce Act, 1985* (Canada), the *Family Law Act, 1986* or the *Children's Law Reform Act* in a proceeding in the General Division shall be heard in the Unified Family Court if it is required or permitted to be heard in The Regional Municipality of Hamilton-Wentworth by the rules of court or an order of the court. Idem
S.C. 1986,
c. 4
1986, c. 4
R.S.O. 1980,
c. 68
1984, c. 11, s. 40 (1, 2) *amended*.

(3) All proceedings commenced in or transferred to the Unified Family Court shall be heard and determined without a jury. No jury
1984, c. 11, s. 40 (4), *amended*.

56. Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the judge but respecting which jurisdiction may not be exercised in the Unified Family Other jurisdiction

Court, the court may, with leave of the judge, hear and determine the combined matters. 1984, c. 11, s. 41, *amended*.

Orders of
predecessor
court

57.—(1) The Unified Family Court may hear and determine an application under an Act to discharge, vary or suspend an order made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth.

Enforcement

(2) The Unified Family Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. 1984, c. 11, s. 42, *amended*.

Place where
proceedings
commenced

58.—(1) Subject to subsection (2), proceedings referred to in subsection 55 (1) may be commenced in the Unified Family Court where the applicant or the respondent resides in The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 44 (1), *amended*.

Idem,
custody or
access
R.S.O. 1980,
c. 68

(2) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in The Regional Municipality of Hamilton-Wentworth may be commenced in the Unified Family Court. 1984, c. 11, s. 44 (2), *amended*.

Transfer to
other court

(3) A judge who may preside over the Unified Family Court may, on motion, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (3).

Transfer
from other
court

(4) A judge of a court having jurisdiction in a proceeding under a statutory provision set out in the Schedule to this Part in an area other than The Regional Municipality of Hamilton-Wentworth may, on motion, order that the proceeding be transferred to the Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (4), *amended*.

Directions

(5) A judge making an order under subsection (3) or (4) may give such directions for the transfer as are considered just. 1984, c. 11, s. 44 (5).

Status of
orders

59. An order of a judge presiding over the Unified Family Court made in the exercise of his or her jurisdiction as a judge of the Ontario Court (General Division) is an order of the General Division for all purposes. 1984, c. 11, s. 45, *amended*.

60.—(1) Subject to subsections (2) and (3), a provision for an appeal from an order made under the statutory provisions set out in the Schedule to this Part applies to an order when made in the exercise of the jurisdiction by a judge presiding over the Unified Family Court. Appeals

(2) Where an order made by the Unified Family Court under a statutory provision set out in the Schedule to this Part is within the jurisdiction of the Ontario Court (General Division) outside The Regional Municipality of Hamilton-Wentworth, the order shall, for the purposes of an appeal, be deemed to have been made by a judge of the General Division. 1984, c. 11, s. 46 (1, 2), *amended*. Idem

(3) A provision for an appeal to the Ontario Court (General Division) or a judge of it from an order made by the Unified Family Court under the statutory provisions set out in the Schedule to this Part shall be deemed to provide for an appeal to the Divisional Court. *New*. Idem

(4) Where no provision is made for an appeal from an order of a judge presiding over the Unified Family Court, an appeal lies, Idem

(a) to the Court of Appeal from a final order, except an order referred to in clause (b);

(b) to the Divisional Court from a final order,

(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii); or

- (c) to the Divisional Court from an interlocutory order, with leave as provided in the rules of court. 1984, c. 11, s. 46 (4), *amended*.

Criminal
jurisdiction

R.S.C. 1985,
c. C-46

61.—(1) A judge presiding over the Unified Family Court has all the powers of a judge sitting in the Ontario Court (Provincial Division) for the purposes of proceedings under the *Criminal Code* (Canada).



Idem

(2) The Unified Family Court shall be deemed to be and shall sit as the Provincial Division,

R.S.O. 1980,
c. 400

- (a) for the purpose of dealing with young persons as defined in the *Provincial Offences Act*; and

1986, c. 4
R.S.O. 1980,
cc. 68, 293
1984, c. 55

- (b) for the purpose of prosecutions under the *Family Law Act, 1986*, the *Children's Law Reform Act*, the *Minors' Protection Act* and Part III (Child Protection) and Part VII (Adoption) of the *Child and Family Services Act, 1984*.



Idem

R.S.C. 1985,
c. Y-1

(3) The Unified Family Court is a youth court for the purpose of the *Young Offenders Act* (Canada). 1984, c. 11, s. 47, *amended*.

Conciliation
service

62. A conciliation service may be established, maintained and operated as part of the Unified Family Court. 1984, c. 11, s. 49.

Rules

63.—(1) The Lieutenant Governor in Council may make rules for the Unified Family Court in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) discovery and other forms of disclosure before hearing, including their scope and their admissibility and use in a proceeding;
- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;

- (g) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (h) costs of proceedings;
- (i) enforcement of orders and process;
- (j) payment into and out of court;
- (k) any matter that is referred to in an Act as provided for by rules of court.

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. ^{Idem}

(3) The rules of court made under Part IV do not apply to proceedings in the Unified Family Court. 1984, c. 11, s. 51, *amended*. ^{Idem}

SCHEDULE

Jurisdiction under the following statutory provisions:

	Statutes	Provisions
1.	Annulment of Marriages Act (Ontario) (Canada)	All
2.	Change of Name Act, 1986	All
3.	Child and Family Services Act, 1984	Parts III, VI and VII
4.	Children's Law Reform Act	All, except sections 60 and 61
5.	Divorce Act, 1985 (Canada)	All
6.	Education Act	Sections 29 and 30
7.	Family Law Act, 1986	All, except Part V
8.	Marriage Act	Sections 6 and 9
9.	Minors' Protection Act	Section 2
10.	Reciprocal Enforcement of Maintenance Orders Act, 1982	All
11.	Support and Custody Orders Enforcement Act, 1985	All
12.	Young Offenders Act (Canada)	All

PART IV

RULES OF COURT

Civil Rules
Committee

64.—(1) The Civil Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) nine judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (d) the Attorney General or a person designated by the Attorney General;
- (e) one law officer of the Crown, who shall be appointed by the Attorney General;
- (f) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (g) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (h) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario; and
- (i) four barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court.

Idem

(2) The Chief Justice of Ontario shall preside over the Civil Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside.

Tenure of
office

(3) Each of the members of the Civil Rules Committee appointed under clauses (1) (b), (c), (e), (f), (g), (h) and (i) shall hold office for a period of three years and is eligible for reappointment.

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (e), (f), (g), (h) or (i), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Civil Rules Committee constitutes a quorum. 1984, c. 11, s. 89, *amended*. Quorum

65.—(1) Subject to the approval of the Lieutenant Governor in Council, the Civil Rules Committee may make rules for the Court of Appeal and the Ontario Court (General Division) in relation to the practice and procedure of those courts in all civil proceedings, including family law proceedings. Civil Rules

(2) The Civil Rules Committee may make rules for the courts described in subsection (1), even though they alter or conform to the substantive law, in relation to, Idem

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, the binding effect of orders and representation of parties;
- (c) commencement of proceedings, representation of parties by solicitors and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and its effect and authorizing the Court of Appeal to determine in the first instance a special case arising in a proceeding commenced in the Ontario Court (General Division);
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including their scope and the admissibility and use of that discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) jurisdiction of masters, including the conferral on masters of any jurisdiction of the Ontario Court (General Division), including jurisdiction under an Act, but not including the trial of actions or jurisdiction conferred by an Act on a judge;

- (i) jurisdiction and duties of officers;
- (j) motions and applications, including the hearing of motions in the absence of the public and prohibiting a party from making motions without leave;
- (k) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (l) interpleader;
- (m) preparation for trial and offers to settle and their legal consequences;
- (n) the mode and conduct of trials;
- (o) the appointment by the court of independent experts, their remuneration and the admissibility and use of their reports;
- (p) the discount rate to be used in determining the amount of an award in respect of future pecuniary damages;
- (q) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (r) costs of proceedings, including security for costs and a solicitor's liability for or disentitlement to costs;
- (s) enforcement of orders and process or obligations under the rules;
- (t) the time for and procedure on appeals and stays pending appeal;
- (u) payment into and out of court;
- (v) any matter that is referred to in an Act as provided for by rules of court.

Idem

(3) Nothing in subsection (1) or (2) authorizes the making of rules that conflict with an Act, but rules may be made under subsections (1) and (2) supplementing the provisions of an Act in respect of practice and procedure. 1984, c. 11, s. 90, *amended*.

Family Rules
Committee

66.—(1) The Family Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the senior judge for the Unified Family Court;
- (c) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (d) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (e) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (i) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (j) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court; and
- (k) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

(2) The Chief Justice of Ontario shall preside over the Family Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice shall preside. Idem

(3) Each of the members of the Family Rules Committee appointed under clauses (1) (c), (d), (e), (g), (h), (i), (j) and (k) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

Vacancies

(4) Where a vacancy occurs among the members appointed under clause (1) (c), (d), (e), (g), (h), (i), (j) or (k), a new member similarly qualified may be appointed for the remainder of the unexpired term.

Quorum

(5) A majority of the members of the Family Rules Committee constitutes a quorum. *New.*

Family Rules

67.—(1) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under statutory provisions set out in the Schedule to Part III (Unified Family Court), except proceedings under the *Young Offenders Act* (Canada).

R.S.C. 1985,
c. Y-1

Idem

(2) Subsections 65 (2) and (3) apply with necessary modifications to the Family Rules Committee making rules for the courts described in subsection (1).

May modify
civil rules

(3) The rules made by the Family Rules Committee may adopt, modify or exclude the rules made by the Civil Rules Committee.

Rules for
*Young
Offenders Act*

(4) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may prepare rules for the purpose of section 68 of the *Young Offenders Act* (Canada) for consideration by the Ontario Court (Provincial Division). *New.*

Criminal
Rules
Committee

68.—(1) The Criminal Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (d) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);



- (e) the Co-ordinator of Justices of the Peace;
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) three Crown attorneys, deputy Crown attorneys or assistant Crown attorneys, who shall be appointed by the Attorney General;
- (i) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (j) two barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (k) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario;
- (l) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court; and
- (m) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).



(2) The Chief Justice of Ontario shall preside over the Criminal Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside.

Idem

(3) Each of the members of the Criminal Rules Committee appointed under clauses (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) and (m) shall hold office for a period of three years and is eligible for reappointment.

Tenure of office

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) or (m), a new member similarly qualified may be appointed for the remainder of the unexpired term.

Vacancies

(5) A majority of the members of the Criminal Rules Committee constitutes a quorum. *New.*

Quorum

Criminal
Rules

R.S.C. 1985,
c. C-46

69.—(1) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may prepare rules for the purposes of section 482 of the *Criminal Code* (Canada) for consideration by the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division).

Provincial
offences rules

R.S.O. 1980,
c. 400

(2) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under the *Provincial Offences Act*. *New.*

Idem

(3) The Criminal Rules Committee may make rules under subsection (2),

- (a) regulating any matters relating to the practice and procedure of proceedings under the *Provincial Offences Act*;
- (b) prescribing forms;
- (c) regulating the duties of the employees of the courts;
- (d) prescribing and regulating the procedures under any Act that confers jurisdiction under the *Provincial Offences Act* on the Ontario Court (Provincial Division) or a judge or justice of the peace sitting in it;
- (e) prescribing any matter relating to proceedings under the *Provincial Offences Act* that is referred to in an Act as provided for by the rules of court. 1984, c. 11, s. 73 (3), *amended.*

3. Sections 92 and 93 of the said Act are repealed and the following substituted therefor:



Ontario
Courts
Management
Committee

92.—(1) There shall be a committee, known as the Ontario Courts Management Committee, composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the Attorney General, the Deputy Attorney General, the Assistant Deputy Attorney General responsible for courts administration and the

Assistant Deputy Attorney General responsible for criminal law;

- (c) two barristers and solicitors appointed by the Benchers of the Law Society of Upper Canada in convocation and two barristers and solicitors appointed by the presidents of the county and district law associations; and
- (d) not more than four other persons, appointed by the Attorney General with the concurrence of,
 - (i) all of the judges mentioned in clause (a), and
 - (ii) all of the barristers and solicitors appointed under clause (c).

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee:

Who to
preside

- 1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.
- 2. The Attorney General or a person mentioned in clause (1) (b) and designated by the Attorney General.
- 3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.
- 4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest. *New.*

Function of
Committee

92a.—(1) For judicial purposes, Ontario is divided into the regions prescribed under subsection (2).

Regions for
judicial
purposes

(2) The Lieutenant Governor in Council may make regulations prescribing regions for the purpose of this Act. *New.*

Regulations

92b.—(1) There shall be a committee in each region, known as the Regional Courts Management Committee, composed of,

Regional
Courts
Management
Committee

- (a) the regional senior judge of the Ontario Court (General Division) and the regional senior judge of the Ontario Court (Provincial Division);
- (b) the regional director of courts administration for the Ministry of the Attorney General and the regional director of Crown attorneys;
- (c) two barristers and solicitors appointed jointly by the presidents of the county and district law associations in the region; and
- (d) not more than two other persons, appointed by the Attorney General with the concurrence of,
 - (i) both of the judges mentioned in clause (a), and
 - (ii) both of the barristers and solicitors appointed under clause (c).

Who to
preside

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee:

- 1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.
- 2. An official mentioned in clause (1) (b) selected by the officials mentioned in that clause.
- 3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.
- 4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

Function of
Committee

(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures for the region to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest.


Frequency of
meetings

(4) The Committee shall meet at least four times each year.
New. 


Powers of
chief or
regional
senior judge

93.—(1) The powers and duties of a judge who has authority to supervise and direct the sittings and the assignment of the judicial duties of his or her court include the following:



1. Determining the sittings of the court.
2. Assigning judges to the sittings.
3. Assigning cases to individual judges.
4. Determining the sitting schedules and places of sittings for individual judges. 
5. Determining the total annual, monthly and weekly workload of individual judges.
6. Preparing trial lists and assigning courtrooms, to the extent necessary to control the determination of who is assigned to hear particular cases. 1984, c. 11, s. 93, *amended*.



(2) Subsection (1) applies with necessary modifications in respect of supervising and directing the sittings and assigning the judicial duties of masters. *New*. 

Powers in respect of masters

4. Section 94 of the said Act is amended by adding thereto the following subsections:

(2) A power or duty given to a registrar, sheriff, court clerk, assessment officer or official examiner under an Act, regulation or rule of court may be exercised or performed by a person or class of persons to whom the power or duty has been assigned by the Deputy Attorney General or a person designated by the Deputy Attorney General.

Exercise of powers of registrar, sheriff, etc.

(3) Subsection (2) applies in respect of an Act, regulation or rule of court made under the authority of the Legislature or of the Parliament of Canada.

Idem

5. The said Act is amended by adding thereto the following section:


95a. Documents and other material that are no longer required in a court office shall be disposed of in accordance with the directions of the Deputy Attorney General, subject to the approval of,

Destruction of documents

(a) in the Court of Appeal, the Chief Justice of Ontario;



(b) in the Ontario Court (General Division), the Chief Judge of the Ontario Court;

(c) in the Ontario Court (Provincial Division), the Chief Judge of the Provincial Division; 

(d) in the Unified Family Court, the Senior Judge for the Unified Family Court. 1984, c. 11, s. 101 (4), *amended*.

6. Section 98 of the said Act is repealed and the following substituted therefor:

Liability of judges

98. Every judge of a court in Ontario and every master has the same immunity from liability as a judge of the Ontario Court (General Division).

7. Section 99 of the said Act is repealed and the following substituted therefor:

Compensation for statutory duties

99. Every judge who was a judge of the Supreme Court or of the District Court before this section comes into force shall be paid out of the Consolidated Revenue Fund the annual sum of \$3,000, payable quarterly, as compensation for the services the judge is called on to render by any Act of the Legislature in addition to his or her ordinary duties.

8. Subsection 100 (1) of the said Act is amended by striking out “Supreme Court or the District Court” in the first and second lines and inserting in lieu thereof “Court of Appeal or the Ontario Court (General Division)”.

9. The said Act is further amended by adding thereto the following sections:

Judges’ gowns

100a. The Lieutenant Governor in Council may make regulations respecting the form of the gown to be worn in court by all judges appointed after this section comes into force.

How judges to be addressed

100b.—(1) Every judge of the Ontario Court of Justice and the Unified Family Court may be addressed as “Your Honour” or as “Judge (*naming the judge*)”.

Idem

(2) A judge appointed to the High Court of Justice before this section comes into force may elect to be addressed according to the practice in existence before this section comes into force.

10. Section 101 of the said Act is repealed and the following substituted therefor:

101.—(1) Every person who was a master of the Supreme Court before this section comes into force is a master of the Ontario Court (General Division). *New.* Masters

(2) Every master has the jurisdiction conferred by the rules of court in proceedings in the General Division. 1984, c. 11, s. 20 (3). Jurisdiction

(3) Sections 42 to 49 apply with necessary modifications to masters in the same manner as to provincial judges. 1984, c. 11, s. 20 (11), *amended.* Application of ss. 42-49

(4) The right of a master to continue in office under subsection 43 (3) is subject to the approval of the Chief Judge of the Ontario Court and not of the Chief Judge of the Provincial Division. *New.* Idem

101a.—(1) Money paid into the Ontario Court (General Division) shall be paid to the Accountant of the Ontario Court and such money and securities in which the money is invested are vested in the Accountant. Money vested in Accountant

(2) Mortgages and other securities taken under an order of the Ontario Court (General Division) and instruments taken as security in respect of a proceeding in the Ontario Court (General Division) shall be taken in the name of the Accountant and shall be deposited in his or her office, except where an order provides otherwise. Security held by Accountant

(3) The Accountant has no duty or obligation in respect of the instruments deposited under subsection (2) except as custodian of the instruments, unless an order of the court provides otherwise. Idem

(4) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Accountant. 1984, c. 11, s. 22, *amended.* Audit by Provincial Auditor

101b.—(1) The finance committee is continued and shall be composed of three persons appointed by the Lieutenant Governor in Council. Finance committee

(2) The finance committee has control and management of the money in the Ontario Court (General Division), the investment of the money and the securities in which it is invested. Management of court funds

(3) Money that is available for investment shall be invested in investments in which the Treasurer of Ontario may invest Investment of court funds

R.S.O. 1980, c. 161 public money under section 3 of the *Financial Administration Act*.

Employment of trust company (4) The finance committee may employ a trust company to make the investments or act as custodian of the securities purchased as investments.

Interest (5) The finance committee may provide for the payment of interest on money paid into the General Division and may fix the rate of interest so paid.

Reserve funds (6) The finance committee may establish such reserve funds as it considers necessary. 1984, c. 11, s. 23, *amended*.

11. Subsection 102 (3) of the said Act is amended by striking out “Rules of Civil Procedure” in the third line and inserting in lieu thereof “rules of court”.

12. Section 103 of the said Act is repealed and the following substituted therefor:

Assessment officers **103.—**(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint assessment officers.

Idem (2) Every master is an assessment officer.

Jurisdiction (3) Every assessment officer has jurisdiction to assess costs in a proceeding in any court.

Appeal from assessment of costs before tribunal (4) Where costs of a proceeding before a tribunal other than a court are to be assessed by an assessment officer,

(a) the rules of court governing the procedure on an assessment of costs apply with necessary modifications; and

(b) an appeal lies to the Ontario Court (General Division) from a certificate of assessment of the costs if an objection was served in respect of the issue appealed in accordance with the rules of court.

13.—(1) Subsection 104 (1) of the said Act is repealed.

(2) Subsection 104 (2) of the said Act is amended by striking out “additional” in the second line.

14.—(1) Subsection 108 (2) of the said Act is amended by striking out “and” where it occurs the second time in the third

line and by inserting after “hearing)” in the fourth line “and 153a (where procedures not provided)”.

(2) Subsection 108 (3) of the said Act, as amended by the Statutes of Ontario, 1989, chapter 24, section 4, is repealed and the following substituted therefor:

(3) Sections 122 (constitutional questions), 135, 136 (language of proceedings), 142 (judge sitting on appeal), 146 (prohibition against photography at court hearings), 152a (arrest and committal warrants enforceable by police) and 153a (where procedures not provided) also apply to proceedings under the *Provincial Offences Act* and, for the purpose, a reference in one of those sections to a judge includes a justice of the peace presiding in the Ontario Court (Provincial Division).

Application
to provincial
offences

R.S.O. 1980,
c. 400

15. Subsection 109 (3) of the said Act is repealed and the following substituted therefor:

(3) Only the Court of Appeal, the Unified Family Court and the Ontario Court (General Division), may grant equitable relief, unless otherwise provided.

Jurisdiction
for equitable
relief

16. Section 110 of the said Act is amended by striking out “Supreme Court, the District Court and the Unified Family Court” in the first and second lines and inserting in lieu thereof “Court of Appeal, the Unified Family Court and the Ontario Court (General Division)”.

17. Subsection 114 (1) of the said Act is amended by striking out “Supreme Court, the District Court or the Unified Family Court” in the first and second lines and inserting in lieu thereof “Unified Family Court or the Ontario Court (General Division)”.

18.—(1) Subsection 118 (1) is repealed and the following substituted therefor:

(1) In this section, “health practitioner” means a person licensed to practise medicine or dentistry in Ontario or any other jurisdiction, a psychologist registered under the *Psychologists Registration Act* or a person certified or registered as a psychologist by another jurisdiction.

“health
practitioner”
defined
R.S.O. 1980,
c. 404

(2) Subsection 118 (2) of the said Act is amended by striking out “medical” in the fourth line and inserting in lieu thereof “health”.

(3) Subsection 118 (5) of the said Act is amended by striking out “medical” in the second line and inserting in lieu thereof “health”.

19. Subsections 120 (2) and (3) of the said Act are repealed and the following substituted therefor:

Transfer
from Small
Claims Court

(2) A proceeding in the Small Claims Court shall not be transferred under clause (1) (d) to the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Idem

(2a) A proceeding in the Small Claims Court shall not be required under subclause (1) (e) (ii) to be asserted by way of counterclaim in a proceeding in the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Motions

(3) The motion shall be made to a judge of the Ontario Court (General Division).

20.—(1) Subsection 121 (1) of the said Act is amended by striking out “a Supreme Court or District Court action” in the first line and inserting in lieu thereof “an action in the Ontario Court (General Division) that is not in the Small Claims Court”.

(2) Subsection 121 (2) of the said Act is amended by striking out “Actions in which a claim is made for any of the following kinds of relief shall be heard without a jury:” in the first and second lines and inserting in lieu thereof “The issues of fact and the assessment of damages in an action shall be tried without a jury in respect of a claim for any of the following kinds of relief:”.

(3) Paragraph 3 of the said subsection 121 (2) is amended by striking out “*Family Law Reform Act*” in the first and second lines and inserting in lieu thereof “*Family Law Act, 1986*”.

21. Subsection 122 (2) of the said Act is amended by striking out “Rules of Civil Procedure” in the second line and inserting in lieu thereof “rules of court”.

22. Subsection 124 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Mutual debts may be set off against each other even if they are of a different nature.

23. Clause 129 (b) of the said Act is amended by striking out “*Family Law Reform Act*” in the first line and inserting in lieu thereof “*Family Law Act, 1986*”.

24.—(1) Clause 133 (1) (a) of the said Act is amended by striking out “the” in the first line and inserting in lieu thereof “a”.

(2) Clause 133 (1) (b) of the said Act is amended by striking out “local judge or”.

25.—(1) Subclause 136 (1) (a) (ii) of the said Act is repealed and the following substituted therefor:

(ii) the area that comprised the County of Welland as it existed on the 31st day of December, 1969,

(iia) The Regional Municipality of Ottawa-Carleton,

(iib) The Municipality of Metropolitan Toronto.

(2) Subsection 136 (6) of the said Act is amended by striking out “Provincial Court (Family Division) or the Provincial Court (Civil Division)” in the second and third lines and inserting in lieu thereof “Ontario Court (Provincial Division) or the Small Claims Court”.

(3) Subsection 136 (7) of the said Act is amended by striking out “in the Provincial Offences Court where it is” in the second and third lines and inserting in lieu thereof “under the *Provincial Offences Act* in”.

26. Subsection 137 (2) of the said Act is amended by striking out “the Registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “a person designated by the Deputy Attorney General”.

27.—(1) Subsection 150 (1) of the said Act is amended by striking out “Supreme Court” in the first line and in the last line and inserting in lieu thereof in each instance “Ontario Court (General Division)”.

(2) Subsection 150 (3) of the said Act is amended by striking out “Supreme Court” in the fourth line and inserting in lieu thereof “Ontario Court (General Division)”.

28. The said Act is further amended by adding thereto the following sections:

Civil orders directed to sheriffs

150a.—(1) Unless an Act provides otherwise, orders of a court arising out of a civil proceeding and enforceable in Ontario shall be directed to a sheriff for enforcement.

Police to assist sheriff

(2) A sheriff who believes that the execution of an order may give rise to a breach of the peace may require a police officer to accompany the sheriff and assist in the execution of the order.

.

Where procedures not provided

153a. Jurisdiction conferred on a court, a judge or a justice of the peace shall, in the absence of express provision for procedures for its exercise in any Act, regulation or rule, be exercised in any manner consistent with the due administration of justice. 1984, c. 11, s. 62, *amended*.

29. Sections 157 and 158 of the said Act are repealed and the following substituted therefor:

Continuation of proceedings in former courts

157. A proceeding pending in a court set out in column 1 of the Table when this section comes into force is continued in the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	High Court of Justice	Ontario Court (General Division)
2.	District Court	Ontario Court (General Division)
3.	surrogate court	Ontario Court (General Division)
4.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
5.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
6.	Provincial Offences Court	Ontario Court (Provincial Division)
7.	Provincial Court (Civil Division)	Small Claims Court

Former Chief Judge, etc.

158.—(1) A provincial judge who was a Chief Judge, Associate Chief Judge or senior judge of the Provincial Court (Criminal Division), the Provincial Court (Family Division) or the Provincial Court (Civil Division) immediately before this section comes into force shall continue to hold the office of provincial judge, is entitled to retain the title of Chief Judge, Associate Chief Judge or senior judge, as the case may be, and is entitled to an annual salary equal to the greater of,

- (a) the current annual salary of a provincial judge; or
- (b) the annual salary the judge received immediately before this section comes into force.

(2) A master who was the Senior Master immediately before this section comes into force shall continue to hold the office of master, is entitled to retain the title of Senior Master and is entitled to an annual salary equal to the greater of,

Former
Senior
Master

- (a) the current annual salary of a master; or
- (b) the annual salary the master received immediately before this section comes into force.

158a.—(1) A document filed in court that refers to a court set out in column 1 of the Table to section 160 is not by that reason invalid and shall be deemed to refer to the court set out opposite to it in column 2.

Documents
filed

(2) Subsection (1) is repealed one year after this section comes into force.

Subsection
repealed

30. Section 159 of the said Act is repealed and the following substituted therefor:

159. Where, by an Act or regulation, jurisdiction is conferred on a particular court set out in column 1 of the Table, the jurisdiction shall be deemed to be conferred on the corresponding court set out in column 2 sitting in the county or district of the court named.

Reference to
territorial
jurisdiction

TABLE

<i>Column 1</i>	<i>Column 2</i>
1. county or district court	Ontario Court (General Division)
2. surrogate court	Ontario Court (General Division)
3. provincial court (family division)	Ontario Court (Provincial Division)
4. provincial offences court	Ontario Court (Provincial Division)
5. small claims court	Small Claims Court

31. Section 160 of the said Act is repealed and the following substituted therefor:

References to
courts

160. A reference in an Act, rule or regulation to a court set out in column 1 of the Table is deemed to be a reference to the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Supreme Court	Ontario Court (General Division)
2.	High Court of Justice	Ontario Court (General Division)
3.	county or district court	Ontario Court (General Division)
4.	District Court	Ontario Court (General Division)
5.	surrogate court	Ontario Court (General Division)
6.	small claims court	Small Claims Court
7.	Provincial Court (Civil Division)	Small Claims Court
8.	provincial court (criminal division)	Ontario Court (Provincial Division)
9.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
10.	provincial court (family division)	Ontario Court (Provincial Division)
11.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
12.	provincial offences court	Ontario Court (Provincial Division)
13.	Provincial Offences Court	Ontario Court (Provincial Division)

Changes in
terminology

160a.—(1) A reference in any Act, rule or regulation, or order or other court process, to a term set out in column 1 of the Table, or any form thereof, is deemed to refer to the corresponding term set out opposite thereto in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Accountant of the Supreme Court	Accountant of the Ontario Court
2.	administrator <i>ad litem</i>	litigation administrator
3.	certificate of <i>lis pendens</i>	certificate of pending litigation
4.	conduct money	attendance money
5.	guardian <i>ad litem</i>	litigation guardian
6.	judicial district	county or district

7.	local judge of the High Court	judge of the Ontario Court (General Division)
8.	local judge of the Supreme Court	judge of the Ontario Court (General Division)
9.	next friend	litigation guardian
10.	originating motion	application
11.	originating notice	notice of application
12.	praecipe	requisition
13.	provisional judicial district	territorial district
14.	a registrar of a surrogate court	the local registrar of the Ontario Court (General Division)
15.	Rules of Civil Procedure	rules of court
16.	Rules Committee	applicable rules committee
17.	Rules Committee of the Supreme and District Courts	applicable rules committee
18.	Rules of Practice and Procedure of the Supreme Court of Ontario made by the Rules Committee	rules of court
19.	special examiner	official examiner
20.	Surrogate Clerk for Ontario	Estate Registrar for Ontario
21.	taxation of costs	assessment of costs
22.	taxing officer	assessment officer
23.	writ of <i>feri facias</i>	writ of seizure and sale
24.	writ of summons	statement of claim or notice of action

(2) A reference in any Act, rule or regulation to the surrogate registrar for a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem, surrogate registrar for a county

(3) A reference in any Act, rule or regulation to the clerk of a county or district court of a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem, clerk of a county

(4) A reference in any Act, rule or regulation to an order, direction or decision filed with the Registrar of the Supreme Court is deemed to be a reference to an order, direction or decision filed with the Ontario Court (General Division).

Idem, order filed with the Registrar

160b. Where an Act, rule or regulation provides that a document is to be filed with, certified to, forwarded to or transmitted to the Supreme Court or the Registrar of the Supreme Court for the purpose of an appeal to the Divisional

Documents filed for appeal to Divisional Court

Court, that document shall be filed with, certified to, forwarded to or transmitted to, as the case may be, the Divisional Court.

References to
counties for
judicial
purposes

160c.—(1) A reference in this Act or any other Act, rule or regulation to a county or district for judicial purposes is deemed to be a reference to the corresponding area that, for municipal or territorial purposes, comprises the county, district, union of counties or regional, district or metropolitan municipality.

Separated
municipalities

(2) For the purpose of subsection (1), every city, town and other municipality is united to and forms part of the county in which it is situate.

Exceptions

(3) Subsection (1) is subject to the following:

1. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Haldimand-Norfolk, deemed to be a reference to the following areas:
 - i. All the area of the County of Haldimand as it existed on the 31st day of March, 1974.
 - ii. All the area of the County of Norfolk as it existed on the 31st day of March, 1974.
2. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Niagara, deemed to be a reference to the following areas:
 - i. All the area of the County of Lincoln as it existed on the 31st day of December, 1969.
 - ii. All the area of the County of Welland as it existed on the 31st day of December, 1969.
3. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Sudbury and the Territorial District of Sudbury, deemed to be a reference to all the area in The Regional Municipality of Sudbury and in the Territorial District of Sudbury.
4. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of an area described below, deemed to be a reference to all the area in the areas described below:

- i. All the area in the County of Victoria.
- ii. All the area in the County of Haliburton.
- iii. All the area in any part of the townships of Sherborne, McClintock, Livingstone, Lawrence and Nightingale located in Algonquin Park, so long as the part remains part of Algonquin Park.

32. Section 212 of the said Act is repealed.

33. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

34. The short title of this Act is the *Courts of Justice Amendment Act, 1989*. Short title

Bill 2

An Act to amend the Courts of Justice Act, 1984



The Hon. I. Scott
Attorney General

1st Reading May 1st, 1989

2nd Reading June 14th, 1989

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill substantially changes the structure of the Ontario courts.

The present structure of the courts is as follows:

1. The Supreme Court of Ontario has two branches, the Court of Appeal and the High Court of Justice. The Supreme Court is a superior court with civil and criminal jurisdiction whose judges are appointed by the federal government.
2. The District Court of Ontario has both civil and criminal jurisdiction but is not a superior court. Its civil jurisdiction is limited by the *Courts of Justice Act, 1984* to claims of less than \$25,000 unless both parties agree to let it hear a claim for a greater amount. Its judges are appointed by the federal government.
3. The Divisional Court is a division of the High Court that hears specified appeals assigned to it by statute and applications for judicial review of a decision of a board or agency. The judges of the High Court are the judges of the Divisional Court.
4. There are four courts presided over by provincial judges, the Provincial Court (Civil Division), the Provincial Court (Family Division), the Provincial Court (Criminal Division) and the Provincial Offences Court. The Provincial Offences Court is usually presided over by justices of the peace and the Provincial Court (Civil Division) is often presided over by part-time deputy judges.
5. The Unified Family Court is a specialized court for family law proceedings in The Regional Municipality of Hamilton-Wentworth. Its judges are appointed by the federal government and are also given the power of provincial judges for their work in the court.

The structure of the Ontario courts proposed by the Bill is as follows:

1. The Court of Appeal will be continued as the final court of appeal for the Province and will be separated from the High Court.
2. There will be a new court, to be called the Ontario Court of Justice, composed of two divisions, the General Division and the Provincial Division.
3. The Ontario Court (General Division) will combine the jurisdiction now exercised by the High Court, the District Court and the surrogate courts. The existing judges of those courts will all become judges of the Ontario Court (General Division). The General Division will be a superior court.
4. The Divisional Court will be continued with no change in its jurisdiction as a branch of the Ontario Court (General Division). All of the judges of the General Division will be judges of the Divisional Court.
5. The Small Claims Court will also be a branch of the Ontario Court (General Division). The monetary limit of the Small Claims Court will be prescribed by regulation. All of the judges of the General Division will be judges of the Small Claims Court. In addition, provincial judges who were formerly in the Provincial Court (Civil Division) will preside over matters in the Small Claims Court and deputy judges will be appointed for three-year renewable terms to preside over matters in the Small Claims Court that do not exceed a prescribed amount.
6. The Ontario Court (Provincial Division) combines the jurisdiction now exercised by the Provincial Court (Criminal Division), the Provincial Court (Family

Division) and the Provincial Offences Court. The existing judges of those courts will all become judges of the Ontario Court (Provincial Division).

7. The Unified Family Court is established as a superior court but is otherwise not changed.

A judge of the General Division will be appointed as Chief Justice of the Ontario Court to manage judicial resources for the General Division of the Ontario Court of Justice. A provincial judge will be appointed as Chief Judge of the Ontario Court (Provincial Division) to manage judicial resources for the Provincial Division.

The Province will be divided into regions for judicial purposes, with the number and area of the regions to be prescribed by regulation. A judge of the General Division will be appointed as regional senior judge of the General Division for each region to manage judicial resources for the General Division in the region, subject to the authority of the Chief Justice of the Ontario Court. A provincial judge will be appointed as regional senior judge of the Provincial Division for each region to manage judicial resources for the Provincial Division in the region, subject to the authority of the Chief Judge of the Ontario Court (Provincial Division).

The Chief Judge of the Ontario Court (Provincial Division) and the regional senior judges of the Provincial Division will be appointed to their administrative positions for five-year terms, after which they will return to being provincial judges.

The Ontario Courts Advisory Council will be replaced by the Ontario Courts Management Committee. In addition, each region will have a Regional Courts Management Committee consisting of the regional senior judges, the regional director of courts administration, the regional director of Crown attorneys and representatives of the regional bar and the public.

The Bill will also restructure rule-making for the courts. Part V of the existing Act establishes the Rules Committee of the Supreme and District Courts and provides for the making of rules of practice and procedure for civil proceedings in those courts. The Bill will establish three separate rules committees, the Civil Rules Committee, the Family Rules Committee and the Criminal Rules Committee, each to make rules in their respective areas.

Some of the other changes to the Act are as follows:

1. The number of judges of the Court of Appeal will be fixed by regulation rather than by statute.
2. Every judge of the General Division must be assigned to a particular region and there must be at least one judge of the General Division assigned to each county or district.
3. The judges of the Ontario Court of Justice are required to meet at least once each year and the judges of the Ontario Court in each region are required to meet at least once in each year to consider the Act, the rules and the administration of justice.
4. A limit on costs in the Small Claims Court is set at 15 per cent of the amount claimed unless the court considers it necessary in the interests of justice to penalize a person for unreasonable behaviour in the proceeding.
5. The Act now provides that the Province will pay \$3,000 each year to federally appointed judges. Although these payments will continue for judges appointed before the Bill comes into force, no payments will be made to future appointees.
6. There is no provision for the appointment of new masters.

7. The Lieutenant Governor in Council will be permitted to prescribe the form of the gown worn in court by all judges appointed after the Bill comes into force.
8. All General Division and Unified Family Court judges may be addressed as "Your Honour" or as "Mr. or Mme. Justice", subject to the right of former High Court judges to elect to be addressed according to the old practice.
9. Errors in the Act are corrected with respect to jury trials (section 121) and setting off mutual debts (section 124). The medical examination provision of the Act (section 118) is amended to permit a court to order an examination by a registered psychologist.
10. The salaries of former Chief Judges, Associate Chief Judges and senior judges of the provincial courts and of the Senior Master are protected and they are permitted to retain their titles.
11. The transitional provisions and complementary amendments in the Act are amended to ensure the continuation of existing court proceedings in the new courts and to deem references to courts in other statutes to be references to the new courts.

The Bill is accompanied by the *Court Reform Statute Law Amendment Act, 1989*, which repeals the *Sheriffs Act* and makes consequential amendments to 52 other statutes.

Bill 2**1989****An Act to amend the Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:

1. In this Act,

Definitions

“action” means a civil proceeding that is not an application and includes a proceeding commenced by,

- (a) claim,
- (b) statement of claim,
- (c) notice of action,
- (d) counterclaim,
- (e) crossclaim,
- (f) third or subsequent party claim, or
- (g) divorce petition or counterpetition;

“application” means a civil proceeding that is commenced by notice of application or by application;

“defendant” means a person against whom an action is commenced;

“hearing” includes a trial;

“motion” means a motion in a proceeding or an intended proceeding;

“order” includes a judgment or decree;

“plaintiff” means a person who commences an action;

“region” means a region prescribed under section 92a. 1984, c. 11, s. 1, *amended*.

2. Parts I and II, Part III, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, section 1, 1985, chapter 1, section 4, 1986, chapter 7, section 15 and 1987, chapter 1, sections 1, 2 and 3, Part IV, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, sections 2, 3, 4 and 5 and 1987, chapter 1, sections 4, 5 and 6 and Part V, as amended by the Statutes of Ontario, 1984, chapter 64, sections 6 and 7, of the said Act are repealed and the following substituted therefor:

PART I

COURT OF APPEAL FOR ONTARIO

Court of
Appeal

2.—(1) The branch of the Supreme Court of Ontario named the Court of Appeal for Ontario is continued as a superior court of record named the Court of Appeal for Ontario.

Idem

(2) In exercising its jurisdiction, the Court of Appeal has all the power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2, *amended*.

Composition
of court

3.—(1) The Court of Appeal shall consist of,

- (a) the Chief Justice of Ontario, who shall be president of the court;
- (b) the Associate Chief Justice of Ontario; and
- (c) such number of other judges as is fixed under subsection (2), to be called justices of appeal. 1984, c. 11, s. 3 (1), *amended*.

Number of
judges

(2) The Lieutenant Governor in Council may by regulation fix the number of judges of the Court of Appeal who are in addition to the Chief Justice and the Associate Chief Justice.

Idem

(3) A reduction in the number of judges does not affect appointments existing at the time of the reduction. *New*.

Additional
judges

(4) There shall be such additional offices of judge of the Court of Appeal as are from time to time required, to be held by Chief Justices of Ontario and Associate Chief Justices of

Ontario who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Court of Appeal. 1984, c. 11, s. 6 (1), *amended*. R.S.C. 1985, c. J-1

(5) There shall be such additional offices of supernumerary judge of the Court of Appeal as are from time to time required, to be held by judges of the Court of Appeal who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of the court. 1984, c. 11, s. 6 (3), *amended*. Super-numerary judges

4.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Justice of the Ontario Court, may assign a judge of the Ontario Court (General Division) to perform the work of a judge of the Court of Appeal. 1984, c. 11, s. 9 (2), *amended*. Assignment of judges from General Division

(2) A judge of the General Division is, by virtue of his or her office, a judge of the Court of Appeal and has all the jurisdiction, power and authority of a judge of the Court of Appeal. 1984, c. 11, s. 8, *amended*. General Division judges

5.—(1) The Chief Justice of Ontario has general supervision and direction over the sittings of the Court of Appeal and the assignment of the judicial duties of the court. 1984, c. 11, s. 18 (5). Powers and duties of Chief Justice

(2) If the Chief Justice of Ontario is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by the Associate Chief Justice of Ontario. Absence of Chief Justice

(3) If the Chief Justice of Ontario and the Associate Chief Justice of Ontario are both absent from Ontario or for any reason unable to act, the powers and duties of the Chief Justice shall be exercised and performed by a judge of the Court of Appeal designated by the Chief Justice or Associate Chief Justice. 1984, c. 11, s. 3 (2), *amended*. Absence of Associate Chief Justice

6.—(1) An appeal lies to the Court of Appeal from, Court of Appeal jurisdiction

- (a) an order of the Divisional Court, on a question that is not a question of fact alone, with leave as provided in the rules of court;
- (b) a final order of a judge of the Ontario Court (General Division), except an order referred to in clause 18 (1) (a);

- (c) a certificate of assessment of costs issued in a proceeding in the Court of Appeal, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 17 (1), *amended*.

Combining of
appeals from
other courts

(2) The Court of Appeal has jurisdiction to hear and determine an appeal that lies to the Divisional Court or the Ontario Court (General Division) if an appeal in the same proceeding lies to and is taken to the Court of Appeal.

Idem

(3) The Court of Appeal may, on motion, transfer an appeal that has already been commenced in the Divisional Court or the Ontario Court (General Division) to the Court of Appeal for the purpose of subsection (2). 1984, c. 11, s. 17 (2), *amended*.

Composition
of court for
hearings

7.—(1) A proceeding in the Court of Appeal shall be heard and determined by not fewer than three judges sitting together, and always by an uneven number of judges. 1984, c. 11, s. 18 (1), *amended*.

Idem,
motions

(2) A motion in the Court of Appeal and an appeal under clause 6 (1) (c) shall be heard and determined by one judge.

Idem

(3) Subsection (2) does not apply to a motion for leave to appeal, a motion to quash an appeal or any other motion that is specified by the rules of court.

Idem

(4) A judge assigned to hear and determine a motion may adjourn the motion to a panel of the Court of Appeal.

Idem

(5) A panel of the Court of Appeal may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 18 (3), *amended*.

References to
Court of
Appeal

8.—(1) The Lieutenant Governor in Council may refer any question to the Court of Appeal for hearing and consideration.

Opinion of
court

(2) The court shall certify its opinion to the Lieutenant Governor in Council, accompanied by a statement of the reasons for it, and any judge who differs from the opinion may certify his or her opinion and reasons in the same manner.

Submissions
by Attorney
General

(3) On the hearing of the question, the Attorney General of Ontario is entitled to make submissions to the court.

Idem

(4) The Attorney General of Canada shall be notified and is entitled to make submissions to the court if the question relates to the constitutional validity or constitutional applica-

bility of an Act, or of a regulation or by-law made under an Act, of the Parliament of Canada or the Legislature.

(5) The court may direct that any person interested, or any one or more persons as representatives of a class of persons interested, be notified of the hearing and be entitled to make submissions to the court. Notice

(6) If an interest affected is not represented by counsel, the court may request counsel to argue on behalf of the interest and the reasonable expenses of counsel shall be paid by the Treasurer of Ontario. Appointment of counsel

(7) The opinion of the court shall be deemed to be a judgment of the court and an appeal lies from it as from a judgment in an action. 1984, c. 11, s. 19. Appeal

PART II

ONTARIO COURT OF JUSTICE

9.—(1) The Ontario Court of Justice is established. Ontario Court

(2) The Ontario Court shall consist of two divisions, the General Division and the Provincial Division. *New.* Divisions

ONTARIO COURT (GENERAL DIVISION)

10.—(1) The branch of the Supreme Court of Ontario named the High Court of Justice for Ontario is continued as a superior court of record named the Ontario Court (General Division). General Division

(2) The General Division has all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2 (1), *amended.* Idem

11.—(1) The General Division shall consist of, Composition of General Division

- (a) the Chief Justice of the Ontario Court, who shall be president of the Ontario Court;
- (b) a regional senior judge of the General Division for each region;
- (c) a senior judge of the General Division for the Unified Family Court; and

- (d) such number of judges of the General Division as is fixed under clause 52 (1) (a). 1984, c. 11, s. 4 (1), *amended*.

Additional
judges

(2) There shall be such additional offices of judge of the General Division as are from time to time required, to be held by Chief Justices of the Ontario Court and regional senior judges of the General Division who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Ontario Court. 1984, c. 11, s. 6 (1), *amended*.

R.S.C. 1985,
c. J-1

Super-
numerary
judges

(3) There shall be such additional offices of supernumerary judge of the General Division as are from time to time required, to be held by judges of the General Division who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of that division. 1984, c. 11, s. 6 (3), *amended*.

Assignment
of judges
from Court
of Appeal

12.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Justice of the Ontario Court, may assign a judge of the Court of Appeal to perform the work of a judge of the General Division. 1984, c. 11, s. 9 (1), *amended*.

Court of
Appeal
judges

(2) A judge of the Court of Appeal is, by virtue of his or her office, a judge of the General Division and has all the jurisdiction, power and authority of a judge of the General Division. 1984, c. 11, s. 8, *amended*.

Powers and
duties of
Chief Justice
of Ontario
Court

13.—(1) The Chief Justice of the Ontario Court shall direct and supervise the sittings of the Ontario Court (General Division) and the assignment of its judicial duties.

Regional
senior
judges,
General
Division

(2) A regional senior judge of the General Division shall, subject to the authority of the Chief Justice of the Ontario Court, exercise the powers and perform the duties of the Chief Justice in respect of the General Division in his or her region.

Delegation

(3) A regional senior judge of the General Division may delegate to a judge of the General Division in his or her region the authority to exercise specified functions. *New*.

Absence of
Chief Justice
of Ontario
Court

(4) If the Chief Justice of the Ontario Court is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the General Division designated by the Chief Justice of the Ontario Court. 1984, c. 11, s. 4 (3), *amended*.

Absence of
regional
senior judge
of General
Division

(5) The powers and duties of a regional senior judge of the General Division who is absent from Ontario or is for any rea-

son unable to act shall be exercised and performed by a judge of the General Division designated by the Chief Justice of the Ontario Court.

(6) The Chief Justice of the Ontario Court may hold meetings with the regional senior judges of the General Division in order to consider any matters concerning sittings of the General Division and the assignment of its judicial duties. *New.*

14.—(1) The Chief Justice of the Ontario Court shall assign every judge of the General Division to a region and may re-assign a judge from one region to another.

(2) There shall be at least one judge of the General Division assigned to each county and district.

(3) No judge of the General Division who was a judge of the High Court of Justice or the District Court of Ontario before this section comes into force shall be assigned without his or her consent to a region other than the region in which he or she resided immediately before this section comes into force.

(4) Subsections (1) to (3) do not prevent the temporary assignment of a judge to a location anywhere in Ontario. *New.*

15. A proceeding in the General Division shall be heard and determined by one judge of the General Division. 1984, c. 11, s. 14 (1), *amended.*

16. An appeal lies to the General Division from,

- (a) an interlocutory order of a master;
- (b) a certificate of assessment of costs issued in a proceeding in the General Division, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 13 (2), *amended.*

DIVISIONAL COURT

17.—(1) There shall be a branch of the General Division to be known as the Divisional Court consisting of the Chief Justice of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Justice designates from time to time.

(2) Every judge of the General Division is also a judge of the Divisional Court. 1984, c. 11, s. 5, *amended.*

Divisional
Court
jurisdiction

18.—(1) An appeal lies to the Divisional Court from,

(a) a final order of a judge of the General Division,

(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii);

(b) an interlocutory order of a judge of the General Division, with leave as provided in the rules of court;

(c) a final order of a master. 1984, c. 11, s. 15 (1), *amended*.

Combining of
appeals from
General
Division

(2) The Divisional Court has jurisdiction to hear and determine an appeal that lies to the General Division if an appeal in the same proceeding lies to and is taken to the Divisional Court.

Idem

(3) The Divisional Court may, on motion, transfer an appeal that has already been commenced in the General Division to the Divisional Court for the purpose of subsection (2). 1984, c. 11, s. 15 (2), *amended*.

Appeal from
interlocutory
orders

(4) No appeal lies from an interlocutory order of a judge of the General Division made on an appeal from an interlocutory order of the Provincial Division. 1984, c. 11, s. 36 (4), *amended*.

Appeals
heard in
regions

19.—(1) An appeal to the Divisional Court shall be heard in the region in which the order appealed from was made, unless the parties agree otherwise.

(2) Any other proceeding in the Divisional Court may be brought in any region. *New.* Other proceedings in any region

20.—(1) A proceeding in the Divisional Court shall be heard and determined by three judges sitting together. Composition of court for hearings

(2) A proceeding in the Divisional Court may be heard and determined by one judge where the proceeding, Idem

(a) is an appeal under clause 18 (1) (c);

(b) is an appeal under section 30 from a provincial judge or a deputy judge presiding over the Small Claims Court; or

(c) is in a matter that the Chief Justice of the Ontario Court or a judge designated by the Chief Justice is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard and determined by one judge.

(3) A motion in the Divisional Court shall be heard and determined by one judge, unless otherwise provided by the rules of court. Idem, motions

(4) A judge assigned to hear and determine a motion may adjourn it to a panel of the Divisional Court. Idem

(5) A panel of the Divisional Court may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 16, *amended.* Idem

SMALL CLAIMS COURT

21.—(1) There shall be a branch of the General Division to be known as the Small Claims Court consisting of the Chief Justice of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Justice designates from time to time. Small Claims Court

(2) Every judge of the General Division is also a judge of the Small Claims Court. *New.* Jurisdiction of judges

22.—(1) The Small Claims Court, Jurisdiction

(a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed the prescribed amount exclusive of interest and costs; and

- (b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed the prescribed amount. 1984, c. 11, s. 78 (1), *amended*.

Transfer
from General
Division

(2) An action in the General Division may be transferred to the Small Claims Court by the local registrar of the General Division on requisition with the consent of all parties filed before the trial commences if,

- (a) the only claim is for the payment of money or the recovery of possession of personal property; and
- (b) the claim is within the jurisdiction of the Small Claims Court.

Idem

(3) An action transferred to the Small Claims Court shall be titled and continued as if it had been commenced in that court. 1984, c. 11, s. 84, *amended*.

Composition
of court for
hearings

23.—(1) A proceeding in the Small Claims Court shall be heard and determined by one judge of the General Division.

Provincial
judge or
deputy judge
may preside

(2) A proceeding in the Small Claims Court may also be heard and determined by,

- (a) a provincial judge who was assigned to the Provincial Court (Civil Division) immediately before this section comes into force; or
- (b) a deputy judge appointed under section 31.

Where
deputy judge
not to
preside

(3) A deputy judge shall not hear and determine an action,

- (a) for the payment of money in excess of the prescribed amount; or
- (b) for the recovery of possession of personal property exceeding the prescribed amount in value. *New*.

Summary
hearings

24. The Small Claims Court shall hear and determine in a summary way all questions of law and fact and may make such order as is considered just and agreeable to good conscience. 1984, c. 11, s. 78 (3), *amended*.

Representation

25. A party may be represented in a proceeding in the Small Claims Court by counsel or an agent but the court may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party if it finds that such person is not compe-

tent properly to represent the party or does not understand and comply at the hearing with the duties and responsibilities of an advocate. 1984, c. 11, s. 79, *amended*.

26.—(1) Subject to subsections (3) and (4), the Small Claims Court may admit as evidence at a hearing and act upon any oral testimony and any document or other thing so long as the evidence is relevant to the subject-matter of the proceeding, but the court may exclude anything unduly repetitious. Evidence

(2) Subsection (1) applies whether or not the evidence is given or proven under oath or affirmation or admissible as evidence in any other court. Idem

(3) Nothing is admissible in evidence at a hearing, Idem

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any Act.

(4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding. Conflicts

(5) A copy of a document or any other thing may be admitted as evidence at a hearing if the presiding judge is satisfied as to its authenticity. 1984, c. 11, s. 80, *amended*. Copies

27. The Small Claims Court may order the times and the proportions in which money payable under an order of the court shall be paid. 1984, c. 11, s. 81, *amended*. Instalment orders

28. An award of costs in the Small Claims Court, other than disbursements, shall not exceed 15 per cent of the amount claimed or the value of the property sought to be recovered unless the court considers it necessary in the interests of justice to penalize a party, counsel or agent for unreasonable behaviour in the proceeding. *New*. Limit on costs

29. Orders of the Small Claims Court shall be directed to a bailiff appointed under subsection 32 (1) for enforcement, unless otherwise provided by the rules of court. 1984, c. 11, s. 82, *amended*. Enforcement of orders

30. An appeal lies to the Divisional Court from a final order of the Small Claims Court in an action, Appeals

- (a) for the payment of money in excess of \$500, excluding costs; or
- (b) for the recovery of possession of personal property exceeding \$500 in value. 1984, c. 11, s. 83, *amended*.

Deputy
judges

31.—(1) A regional senior judge of the General Division may, with the approval of the Attorney General, appoint a barrister and solicitor to act as a deputy judge of the Small Claims Court for a term of three years.

Idem

(2) A regional senior judge of the General Division may renew the appointment of a deputy judge for one or more three-year terms.

Idem

(3) The appointment of a person who was a deputy judge immediately before this section comes into force is deemed to be renewed under subsection (2) on the day this section comes into force. *New*.

Clerk and
bailiff of
Small Claims
Court

32.—(1) There shall be a clerk and one or more bailiffs for each division of the Small Claims Court who shall be appointed by the Lieutenant Governor in Council.

Idem

(2) With the approval of the Deputy Attorney General or the person designated by the Deputy Attorney General, every clerk and bailiff of the Small Claims Court in a division that is not designated under clause 52 (1) (g) may appoint in writing a deputy who may exercise and perform all the powers and duties of the clerk or bailiff.

Referee

(3) The Lieutenant Governor in Council may appoint a referee for a division of the Small Claims Court. 1984, c. 11, s. 86 (4, 5), *amended*.

PROVINCIAL DIVISION

Provincial
Division

33. The Provincial Court (Criminal Division), the Provincial Court (Family Division) and the Provincial Offences Court are amalgamated and continued as a court of record named the Ontario Court (Provincial Division). *New*.

Composition
of Provincial
Division

34. The Provincial Division shall consist of,

- (a) the Chief Judge of the Provincial Division appointed under subsection 41 (3), who shall be president of the Provincial Division;

- (b) a regional senior judge of the Provincial Division appointed under subsection 41 (4) for each region; and
- (c) such provincial judges as are appointed under subsection 41 (1). *New.*

35.—(1) The Chief Judge of the Provincial Division shall direct and supervise the sittings of the Provincial Division and the assignment of its judicial duties. 1984, c. 11, s. 63 (5), *amended.* Powers and duties of Chief Judge of Provincial Division

(2) A regional senior judge of the Provincial Division shall, subject to the authority of the Chief Judge of the Provincial Division, exercise the powers and perform the duties of the Chief Judge of the Provincial Division in his or her region. Regional senior judges, Provincial Division

(3) A regional senior judge of the Provincial Division may delegate to a judge of the Provincial Division in his or her region the authority to exercise specified functions. *New.* Delegation

(4) If the Chief Judge of the Provincial Division is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the Provincial Division designated by the Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (7), *amended.* Absence of Chief Judge of Provincial Division

(5) The powers and duties of a regional senior judge of the Provincial Division who is absent from Ontario or is for any reason unable to act shall be exercised and performed by a judge of the Provincial Division designated by the Chief Judge of the Provincial Division. Absence of regional senior judge of Provincial Division

(6) The Chief Judge of the Provincial Division may hold meetings with the regional senior judges of the Provincial Division in order to consider any matters concerning sittings of the Provincial Division and the assignment of its judicial duties. *New.* Meetings with regional senior judges

36.—(1) The Chief Judge of the Ontario Court (Provincial Division) shall assign every provincial judge to a region and may re-assign a judge from one region to another. Judges assigned to regions

(2) Subsection (1) does not prevent the temporary assignment of a provincial judge to a location anywhere in Ontario. *New.* Idem

37.—(1) A provincial judge has the power and authority of two or more justices of the peace when sitting in the Criminal jurisdiction

Provincial Division and shall exercise the powers and perform the duties that any Act of the Parliament of Canada confers on a provincial court judge when sitting in the Provincial Division. 1984, c. 11, s. 67 (1), *amended*.

Provincial
offences and
family
jurisdiction
R.S.O. 1980,
c. 400

1986, c. 4

R.S.O. 1980,
c. 68

1984, c. 55

Youth court
jurisdiction
R.S.C. 1985,
c. Y-1

(2) The Provincial Division shall perform any function assigned to it by or under the *Provincial Offences Act*, the *Family Law Act*, 1986, the *Children's Law Reform Act*, the *Child and Family Services Act*, 1984 or any other Act. 1984, c. 11, s. 69, s. 75 (1) (a), (k), *amended*.

(3) The Provincial Division is a youth court for the purposes of the *Young Offenders Act* (Canada). 1984, c. 11, s. 67 (2), s. 75 (1) (b), *amended*.

Judge to
preside

38.—(1) A proceeding in the Provincial Division shall be heard and determined by one judge of the Provincial Division. 1984, c. 11, s. 66 (2), s. 74 (2), *amended*.

Justice of the
peace may
preside
R.S.O. 1980,
c. 400

(2) A justice of the peace may preside over the Provincial Division in a proceeding under the *Provincial Offences Act*. 1984, c. 11, s. 68 (2), *amended*.

Appeals

39.—(1) If no provision is made concerning an appeal from an order of the Provincial Division, an appeal lies to the General Division.

Exception
R.S.C. 1985,
c. C-46

(2) Subsection (1) does not apply to a proceeding under the *Criminal Code* (Canada) or the *Provincial Offences Act*. 1987, c. 1, s. 6, *amended*.

Penalty for
disturbance
outside
courtroom

40. Any person who knowingly disturbs or interferes with a proceeding in the Provincial Division without reasonable justification while outside the courtroom is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. 1984, c. 11, s. 72, *amended*.

PROVINCIAL JUDGES

Appointment
of provincial
judges

41.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such provincial judges as are considered necessary.

Qualifications

(2) No person shall be appointed as a provincial judge unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years. 1984, c. 11, s. 52.

(3) The Lieutenant Governor in Council may appoint a provincial judge as Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (1), *amended*. Chief Judge

(4) The Lieutenant Governor in Council may appoint a provincial judge to be the regional senior judge of the Provincial Division for each region. Regional senior judges

(5) The Chief Judge of the Provincial Division and the regional senior judges of the Provincial Division shall hold office for five years. Term of office

(6) If a successor is not appointed within five years, the Chief Judge or a regional senior judge shall continue in office until the successor is appointed, but in no case shall the Chief Judge or regional senior judge hold office for more than seven years. Idem

(7) A Chief Judge or a regional senior judge whose term of office expires under subsection (5) or (6) shall continue to hold the office of provincial judge and is entitled to an annual salary equal to the greater of, Former Chief Judge, etc.

(a) the current annual salary of a provincial judge; or

(b) the annual salary he or she received immediately before ceasing to be Chief Judge or regional senior judge.

(8) A Chief Judge or regional senior judge whose term of office expires under subsection (5) or (6) shall not be reappointed to the same position. *New*. Chief Judge, etc., not to be reappointed

42.—(1) A provincial judge shall devote his or her whole time to the performance of his or her duties as a judge, except as authorized by the Lieutenant Governor in Council. Other employment

(2) Despite subsection (1), a provincial judge who, before the 1st day of January, 1985, had the consent of the Attorney General to act as an arbitrator or conciliator may continue to so act. 1984, c. 11, s. 53, *amended*. Idem

43.—(1) Every provincial judge shall retire upon attaining the age of sixty-five years. Retirement

(2) Despite subsection (1), a provincial judge appointed as a full-time magistrate, judge of a juvenile and family court or master before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years. Idem

Continuation
of judges in
office

(3) A judge who has attained the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in office as a full-time or part-time judge until he or she attains the age of seventy years.

Idem

(4) A judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years.

Continuation
of regional
senior judge
in office

(5) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem

(6) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of seventy years may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years.

Continuation
of
Co-ordinator
in office
1989, c. 46

(7) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of sixty-five years, he or she may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem

(8) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of seventy years, he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. *New.*

Continuation
in office of
Chief Judge
of Provincial
Division

(9) Subject to subsections 41 (5) and (6), if the Chief Judge of the Provincial Division is in office upon attaining the age for retirement under subsection (1) or (2), he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. 1984, c. 11, s. 54, *amended*.

Resignation
of judge

44.—(1) A provincial judge may at any time resign from his or her office by delivering a signed letter of resignation to the Attorney General.

Resignation
as Chief
Judge, etc.

(2) A Chief Judge or a regional senior judge may, before the expiry of his or her term of office under subsection 41 (5)

or (6), elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General.

(3) The Co-ordinator of Justices of the Peace may, before the expiry of his or her term of office under subsection 13 (2) or (3) of the *Justices of the Peace Act, 1989*, elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General. *New.*

Resignation
of
Co-ordinator
1989, c. 46

(4) A resignation or election under this section takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day. 1984, c. 11, s. 55, s. 65, *amended.*

Effective
date

45.—(1) A provincial judge may be removed from office before attaining retirement age only if,

Removal for
cause

- (a) a complaint regarding the judge has been made to the Judicial Council; and
- (b) the removal is recommended by an inquiry held under section 49 on the ground that the judge has become incapacitated or disabled from the due execution of his or her office by reason of,
 - (i) infirmity,
 - (ii) conduct that is incompatible with the execution of his or her office, or
 - (iii) having failed to perform the duties of his or her office.

(2) An order removing a provincial judge from office under this section may be made by the Lieutenant Governor on the address of the Legislative Assembly. 1984, c. 11, s. 56, *amended.*

Order for
removal

46.—(1) The Judicial Council for Provincial Judges is continued as the Ontario Judicial Council and shall be composed of,

Judicial
Council

- (a) the Chief Justice of Ontario, who shall preside over the Ontario Judicial Council;
- (b) the Associate Chief Justice of Ontario;
- (c) the Chief Justice of the Ontario Court;

- (d) the Chief Judge of the Ontario Court (Provincial Division);
- (e) the Treasurer of The Law Society of Upper Canada; and
- (f) not more than two other persons appointed by the Lieutenant Governor in Council.

Quorum (2) A majority of members of the Judicial Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Judicial Council.

Staff (3) Such officers and employees of the Judicial Council as
R.S.O. 1980, are considered necessary may be appointed under the *Public*
c. 418 *Service Act*.

Expert assistance (4) The Judicial Council may engage persons, including counsel, to assist it in its investigations. 1984, c. 11, s. 57, *amended*.

Transition (5) An investigation commenced by the Judicial Council before this section comes into force shall be continued by the Judicial Council as it was constituted before this section comes into force. *New*.

Functions **47.—**(1) The functions of the Judicial Council are,

- (a) to consider all proposed appointments of provincial judges and make a report on them to the Attorney General;
- (b) to receive and investigate complaints against provincial judges.

Liability for damages (2) No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer of it or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty. 1984, c. 11, s. 58.

Investigation of complaints **48.—**(1) Where the Judicial Council receives a complaint against a provincial judge, it shall take such action to investigate the complaint as it considers advisable.

Referral to Chief Judge (2) The Judicial Council may transmit those complaints it considers appropriate,

- (a) concerning provincial judges to the Chief Judge of the Provincial Division; and

- (b) concerning masters to the Chief Justice of the Ontario Court.

(3) The proceedings of the Judicial Council shall not be public, but it may inform the Attorney General respecting matters that it has investigated and the Attorney General may make public the fact that an investigation has been undertaken.

Proceedings
not public

(4) The Judicial Council may order that information or documents relating to its proceedings not be published or disclosed except as required by law.

Prohibiting
publication

(5) The Judicial Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers
R.S.O. 1980,
c. 411

(6) When the Judicial Council has dealt with a complaint regarding a provincial judge, it shall inform the following persons of its disposition of the complaint:

Notice of
disposition

1. The person who made the complaint.
2. If the complaint was brought to the attention of the judge, the judge.

(7) The Judicial Council may report its opinion regarding the complaint to the Attorney General and may recommend,

Report and
recommendations

- (a) that an inquiry be held under section 49;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the investigation.

(8) A copy of a report made under subsection (7) shall be given to the judge.

Copy to
judge

(9) The Judicial Council shall not make a report under subsection (7) unless the judge was notified of the investigation and given an opportunity to be heard and to produce evidence on his or her behalf.

Right to be
heard

(10) When the Judicial Council makes a report to the Attorney General under subsection (7), the Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. 1984, c. 11, s. 59, *amended*.

Publication
of report

Inquiry

49.—(1) The Lieutenant Governor in Council may appoint a judge of the General Division to inquire into the question whether a provincial judge should be removed from office.

Powers

R.S.O. 1980,
c. 411

(2) The *Public Inquiries Act* applies to an inquiry under subsection (1).

Report

(3) The report of the inquiry may recommend,

- (a) that the judge be removed from office;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the inquiry.

Tabling of
report

(4) The report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session. 1984, c. 11, s. 60, *amended*.

Provincial
Judges
Remuneration
Commission

50.—(1) The committee known as the Ontario Provincial Courts Committee is continued as the Provincial Judges Remuneration Commission.

Composition
of
Commission

(2) The Commission shall be composed of the following three members:

1. One appointed jointly by the associations representing provincial judges.
2. One appointed by the Lieutenant Governor in Council.
3. One, who shall head the Commission, appointed jointly by the bodies referred to in paragraphs 1 and 2.

Function

(3) The function of the Provincial Judges Remuneration Commission is to inquire into and make recommendations to the Lieutenant Governor in Council respecting any matter relating to the remuneration, allowances and benefits of provincial judges, including the matters referred to in clauses 52 (1) (b) and (c).

Annual
report

(4) The Commission shall make an annual report of its activities to the Lieutenant Governor in Council.

Tabling of
recommen-
dations

(5) Recommendations of the Commission and its annual report shall be laid before the Legislative Assembly if it is in

session or, if not, within fifteen days of the commencement of the next session. 1984, c. 11, s. 88, *amended*.

MISCELLANEOUS

51.—(1) The judges of the Ontario Court of Justice shall meet at least once in each year, on a day fixed by the Chief Justice of the Ontario Court, in order to consider this Act, the rules of court and the administration of justice generally. Meeting of judges

(2) The judges shall report their recommendations to the Attorney General. 1984, c. 11, s. 10, *amended*. Idem

(3) The judges of the Ontario Court of Justice in each region shall meet at least once in each year, on a day fixed by the regional senior judge of the General Division, in order to consider this Act, the rules of court and the administration of justice in the region generally. Regional meeting of judges

(4) The judges shall report their recommendations to the Attorney General. *New*. Idem

52.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) fixing the number of judges of the General Division who are in addition to the Chief Justice, the regional senior judges and the Senior Judge for the Unified Family Court;
- (b) fixing the remuneration of provincial judges and masters;
- (c) providing for the benefits to which provincial judges and masters are entitled, including,
 - (i) leave of absence and vacations,
 - (ii) sick leave credits and payments in respect of those credits,
 - (iii) pension benefits for provincial judges, masters and their surviving spouses and children;
- (d) prescribing territorial divisions for the Small Claims Court;
- (e) prescribing the maximum amount of a claim in the Small Claims Court for the purposes of subsection 22 (1);

- R.S.O. 1980,
c. 418
- (f) prescribing the maximum amount of a claim over which a deputy judge may preside for the purposes of subsection 23 (3);
 - (g) providing for the retention of fees by clerks, bailiffs and referees of the Small Claims Court who are not civil servants under the *Public Service Act* and designating divisions where clerks, bailiffs and referees of the Small Claims Court may be appointed to a position as a civil servant under that Act;
 - (h) prescribing the duties of clerks, bailiffs and referees of the Small Claims Court;
 - (i) prescribing for each region the minimum number of judges of the General Division and of the Provincial Division who are to be assigned to that region. 1984, c. 11, s. 4 (2), s. 20 (4), s. 87 (1), *amended*.

Idem

(2) A reduction in the number of judges of the General Division under clause (1) (a) does not affect appointments existing at the time of the reduction. 1984, c. 11, s. 4 (2), *amended*.

Contributions

(3) Regulations made under clause (1) (c) may require judges and masters to contribute from their salaries part of the costs of benefits and may fix the amount of the contributions.

Application
of
R.S.O. 1980,
c. 419

(4) A regulation made under clause (1) (c) may modify or exclude the application of the *Public Service Superannuation Act*.

Application
of regulations

(5) A regulation made under subsection (1) may be general or particular in its application. 1984, c. 11, s. 20 (5-7), s. 87 (2-4), *amended*.

PART III

UNIFIED FAMILY COURT

Unified
Family Court

53. The Unified Family Court is continued as a superior court of record in and for The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 38, *amended*.

Composition
of court

54.—(1) The Unified Family Court shall be presided over by,

(a) a judge of the Ontario Court (General Division) appointed as senior judge for the Unified Family Court; or

(b) a judge of the Ontario Court (General Division),

who is authorized under subsection (3) to exercise the jurisdiction of a judge of the Ontario Court (Provincial Division).

(2) The senior judge for the Unified Family Court shall supervise and direct the sittings and the assignment of the judicial duties of the Unified Family Court.

Duties of senior judge

(3) The Lieutenant Governor in Council may authorize a judge of the General Division to exercise the jurisdiction of a judge of the Provincial Division.

Authority for Provincial Division matters

(4) A judge who may preside over the Unified Family Court shall exercise his or her jurisdiction as a judge of the General Division or a judge of the Provincial Division in the matters in which the General Division or the Provincial Division or a judge of one of them has jurisdiction under the statutory provisions set out in the Schedule to this Part. 1984, c. 11, s. 39; 1987, c. 1, s. 1, *amended*.

Exercise of existing jurisdiction

55.—(1) Proceedings taken in a court in The Regional Municipality of Hamilton-Wentworth under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, shall be commenced and titled in the Unified Family Court and the jurisdiction of the court shall be exercised in the Unified Family Court.

Proceedings in Unified Family Court

(2) A motion for interim relief under the *Divorce Act*, 1985 (Canada), the *Family Law Act*, 1986 or the *Children's Law Reform Act* in a proceeding in the General Division shall be heard in the Unified Family Court if it is required or permitted to be heard in The Regional Municipality of Hamilton-Wentworth by the rules of court or an order of the court. 1984, c. 11, s. 40 (1, 2) *amended*.

Idem
S.C. 1986,
c. 4
1986, c. 4
R.S.O. 1980,
c. 68

(3) All proceedings commenced in or transferred to the Unified Family Court shall be heard and determined without a jury. 1984, c. 11, s. 40 (4), *amended*.

No jury

56. Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the judge but respecting which jurisdiction may not be exercised in the Unified Family

Other jurisdiction

Court, the court may, with leave of the judge, hear and determine the combined matters. 1984, c. 11, s. 41, *amended*.

Orders of
predecessor
court

57.—(1) The Unified Family Court may hear and determine an application under an Act to discharge, vary or suspend an order made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth.

Enforcement

(2) The Unified Family Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. 1984, c. 11, s. 42, *amended*.

Place where
proceedings
commenced

58.—(1) Subject to subsection (2), proceedings referred to in subsection 55 (1) may be commenced in the Unified Family Court where the applicant or the respondent resides in The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 44 (1), *amended*.

Idem,
custody or
access
R.S.O. 1980,
c. 68

(2) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in The Regional Municipality of Hamilton-Wentworth may be commenced in the Unified Family Court. 1984, c. 11, s. 44 (2), *amended*.

Transfer to
other court

(3) A judge who may preside over the Unified Family Court may, on motion, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (3).

Transfer
from other
court

(4) A judge of a court having jurisdiction in a proceeding under a statutory provision set out in the Schedule to this Part in an area other than The Regional Municipality of Hamilton-Wentworth may, on motion, order that the proceeding be transferred to the Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (4), *amended*.

Directions

(5) A judge making an order under subsection (3) or (4) may give such directions for the transfer as are considered just. 1984, c. 11, s. 44 (5).

Status of
orders

59. An order of a judge presiding over the Unified Family Court made in the exercise of his or her jurisdiction as a judge of the Ontario Court (General Division) is an order of the General Division for all purposes. 1984, c. 11, s. 45, *amended*.

60.—(1) Subject to subsections (2) and (3), a provision for an appeal from an order made under the statutory provisions set out in the Schedule to this Part applies to an order when made in the exercise of the jurisdiction by a judge presiding over the Unified Family Court. Appeals

(2) Where an order made by the Unified Family Court under a statutory provision set out in the Schedule to this Part is within the jurisdiction of the Ontario Court (General Division) outside The Regional Municipality of Hamilton-Wentworth, the order shall, for the purposes of an appeal, be deemed to have been made by a judge of the General Division. 1984, c. 11, s. 46 (1, 2), *amended*. Idem

(3) A provision for an appeal to the Ontario Court (General Division) or a judge of it from an order made by the Unified Family Court under the statutory provisions set out in the Schedule to this Part shall be deemed to provide for an appeal to the Divisional Court. *New*. Idem

(4) Where no provision is made for an appeal from an order of a judge presiding over the Unified Family Court, an appeal lies, Idem

(a) to the Court of Appeal from a final order, except an order referred to in clause (b);

(b) to the Divisional Court from a final order,

(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii); or

- (c) to the Divisional Court from an interlocutory order, with leave as provided in the rules of court. 1984, c. 11, s. 46 (4), *amended*.

Criminal
jurisdiction

61.—(1) A judge presiding over the Unified Family Court has all the powers of a judge sitting in the Ontario Court (Provincial Division) for the purposes of proceedings under the *Criminal Code* (Canada).

R.S.C. 1985,
c. C-46

Idem

(2) The Unified Family Court shall be deemed to be and shall sit as the Provincial Division,

R.S.O. 1980,
c. 400

- (a) for the purpose of dealing with young persons as defined in the *Provincial Offences Act*; and

1986, c. 4

R.S.O. 1980,
cc. 68, 293
1984, c. 55

- (b) for the purpose of prosecutions under the *Family Law Act, 1986*, the *Children's Law Reform Act*, the *Minors' Protection Act* and Part III (Child Protection) and Part VII (Adoption) of the *Child and Family Services Act, 1984*.

Idem

R.S.C. 1985,
c. Y-1

(3) The Unified Family Court is a youth court for the purpose of the *Young Offenders Act* (Canada). 1984, c. 11, s. 47, *amended*.

Conciliation
service

62. A conciliation service may be established, maintained and operated as part of the Unified Family Court. 1984, c. 11, s. 49.

Rules

63.—(1) The Lieutenant Governor in Council may make rules for the Unified Family Court in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) discovery and other forms of disclosure before hearing, including their scope and their admissibility and use in a proceeding;
- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;

- (g) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (h) costs of proceedings;
- (i) enforcement of orders and process;
- (j) payment into and out of court;
- (k) any matter that is referred to in an Act as provided for by rules of court.

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. ^{Idem}

(3) The rules of court made under Part IV do not apply to proceedings in the Unified Family Court. 1984, c. 11, s. 51, ^{Idem} amended.

SCHEDULE

Jurisdiction under the following statutory provisions:

	Statutes	Provisions
1.	Annulment of Marriages Act (Ontario) (Canada)	All
2.	Change of Name Act, 1986	All
3.	Child and Family Services Act, 1984	Parts III, VI and VII
4.	Children's Law Reform Act	All, except sections 60 and 61
5.	Divorce Act, 1985 (Canada)	All
6.	Education Act	Sections 29 and 30
7.	Family Law Act, 1986	All, except Part V
8.	Marriage Act	Sections 6 and 9
9.	Minors' Protection Act	Section 2
10.	Reciprocal Enforcement of Maintenance Orders Act, 1982	All
11.	Support and Custody Orders Enforcement Act, 1985	All
12.	Young Offenders Act (Canada)	All

PART IV

RULES OF COURT

Civil Rules
Committee

64.—(1) The Civil Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) nine judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
- (d) the Attorney General or a person designated by the Attorney General;
- (e) one law officer of the Crown, who shall be appointed by the Attorney General;
- (f) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (g) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (h) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario; and
- (i) four barristers and solicitors, who shall be appointed by the Chief Justice of the Ontario Court.

Idem

(2) The Chief Justice of Ontario shall preside over the Civil Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside.

Tenure of
office

(3) Each of the members of the Civil Rules Committee appointed under clauses (1) (b), (c), (e), (f), (g), (h) and (i) shall hold office for a period of three years and is eligible for reappointment.

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (e), (f), (g), (h) or (i), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Civil Rules Committee constitutes a quorum. 1984, c. 11, s. 89, *amended*. Quorum

65.—(1) Subject to the approval of the Lieutenant Governor in Council, the Civil Rules Committee may make rules for the Court of Appeal and the Ontario Court (General Division) in relation to the practice and procedure of those courts in all civil proceedings, including family law proceedings. Civil Rules

(2) The Civil Rules Committee may make rules for the courts described in subsection (1), even though they alter or conform to the substantive law, in relation to, Idem

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, the binding effect of orders and representation of parties;
- (c) commencement of proceedings, representation of parties by solicitors and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and its effect and authorizing the Court of Appeal to determine in the first instance a special case arising in a proceeding commenced in the Ontario Court (General Division);
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including their scope and the admissibility and use of that discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) jurisdiction of masters, including the conferral on masters of any jurisdiction of the Ontario Court (General Division), including jurisdiction under an Act, but not including the trial of actions or jurisdiction conferred by an Act on a judge;

- (i) jurisdiction and duties of officers;
- (j) motions and applications, including the hearing of motions in the absence of the public and prohibiting a party from making motions without leave;
- (k) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (l) interpleader;
- (m) preparation for trial and offers to settle and their legal consequences;
- (n) the mode and conduct of trials;
- (o) the appointment by the court of independent experts, their remuneration and the admissibility and use of their reports;
- (p) the discount rate to be used in determining the amount of an award in respect of future pecuniary damages;
- (q) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (r) costs of proceedings, including security for costs and a solicitor's liability for or disentitlement to costs;
- (s) enforcement of orders and process or obligations under the rules;
- (t) the time for and procedure on appeals and stays pending appeal;
- (u) payment into and out of court;
- (v) any matter that is referred to in an Act as provided for by rules of court.

Idem

(3) Nothing in subsection (1) or (2) authorizes the making of rules that conflict with an Act, but rules may be made under subsections (1) and (2) supplementing the provisions of an Act in respect of practice and procedure. 1984, c. 11, s. 90, *amended*.

Family Rules
Committee

66.—(1) The Family Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the senior judge for the Unified Family Court;
- (c) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (d) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
- (e) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (i) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (j) two barristers and solicitors, who shall be appointed by the Chief Justice of the Ontario Court; and
- (k) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

(2) The Chief Justice of Ontario shall preside over the Family Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice shall preside. Idem

(3) Each of the members of the Family Rules Committee appointed under clauses (1) (c), (d), (e), (g), (h), (i), (j) and (k) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

- Vacancies (4) Where a vacancy occurs among the members appointed under clause (1) (c), (d), (e), (g), (h), (i), (j) or (k), a new member similarly qualified may be appointed for the remainder of the unexpired term.
- Quorum (5) A majority of the members of the Family Rules Committee constitutes a quorum. *New.*
- Family Rules **67.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under statutory provisions set out in the Schedule to Part III (Unified Family Court), except proceedings under the *Young Offenders Act* (Canada).
- R.S.C. 1985, c. Y-1
- Idem (2) Subsections 65 (2) and (3) apply with necessary modifications to the Family Rules Committee making rules for the courts described in subsection (1).
- May modify civil rules (3) The rules made by the Family Rules Committee may adopt, modify or exclude the rules made by the Civil Rules Committee.
- Rules for *Young Offenders Act* (4) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may prepare rules for the purpose of section 68 of the *Young Offenders Act* (Canada) for consideration by the Ontario Court (Provincial Division). *New.*
- Criminal Rules Committee **68.**—(1) The Criminal Rules Committee is established and shall be composed of,
- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
 - (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
 - (c) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
 - (d) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);

- (e) the Co-ordinator of Justices of the Peace;
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) three Crown attorneys, deputy Crown attorneys or assistant Crown attorneys, who shall be appointed by the Attorney General;
- (i) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (j) two barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (k) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario;
- (l) one barrister and solicitor, who shall be appointed by the Chief Justice of the Ontario Court; and
- (m) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

(2) The Chief Justice of Ontario shall preside over the Criminal Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside. Idem

(3) Each of the members of the Criminal Rules Committee appointed under clauses (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) and (m) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) or (m), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Criminal Rules Committee constitutes a quorum. *New.* Quorum

69.—(1) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may prepare Criminal Rules

R.S.C. 1985, rules for the purposes of section 482 of the *Criminal Code* (Canada) for consideration by the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division).
c. C-46

Provincial offences rules (2) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under the *Provincial Offences Act*. *New*.
R.S.O. 1980, c. 400

Idem (3) The Criminal Rules Committee may make rules under subsection (2),

- (a) regulating any matters relating to the practice and procedure of proceedings under the *Provincial Offences Act*;
- (b) prescribing forms;
- (c) regulating the duties of the employees of the courts;
- (d) prescribing and regulating the procedures under any Act that confers jurisdiction under the *Provincial Offences Act* on the Ontario Court (Provincial Division) or a judge or justice of the peace sitting in it;
- (e) prescribing any matter relating to proceedings under the *Provincial Offences Act* that is referred to in an Act as provided for by the rules of court. 1984, c. 11, s. 73 (3), *amended*.

3. Sections 92 and 93 of the said Act are repealed and the following substituted therefor:

Ontario
Courts
Management
Advisory
Committee

92.—(1) There shall be a committee, known as the Ontario Courts Management Advisory Committee, composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the Attorney General, the Deputy Attorney General, the Assistant Deputy Attorney General responsible for courts administration and the

Assistant Deputy Attorney General responsible for criminal law;

- (c) two barristers and solicitors appointed by the Benchers of the Law Society of Upper Canada in convocation and two barristers and solicitors appointed by the presidents of the county and district law associations; and
- (d) not more than four other persons, appointed by the Attorney General with the concurrence of,
 - (i) all of the judges mentioned in clause (a), and
 - (ii) all of the barristers and solicitors appointed under clause (c).

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee:

Who to
preside

1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.
2. The Attorney General or a person mentioned in clause (1) (b) and designated by the Attorney General.
3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.
4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest. *New.*

Function of
Committee

92a.—(1) For judicial purposes, Ontario is divided into the regions prescribed under subsection (2).

Regions for
judicial
purposes

(2) The Lieutenant Governor in Council may make regulations prescribing regions for the purpose of this Act. *New.*

Regulations

92b.—(1) There shall be a committee in each region, known as the Regional Courts Management Advisory Committee, composed of,

Regional
Courts
Management
Advisory
Committee

- (a) the regional senior judge of the Ontario Court (General Division) and the regional senior judge of the Ontario Court (Provincial Division);
- (b) the regional director of courts administration for the Ministry of the Attorney General and the regional director of Crown attorneys;
- (c) two barristers and solicitors appointed jointly by the presidents of the county and district law associations in the region; and
- (d) not more than two other persons, appointed by the Attorney General with the concurrence of,
 - (i) both of the judges mentioned in clause (a), and
 - (ii) both of the barristers and solicitors appointed under clause (c).

Who to
preside

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee:

- 1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.
- 2. An official mentioned in clause (1) (b) selected by the officials mentioned in that clause.
- 3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.
- 4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

Function of
Committee

(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures for the region to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest.

Frequency of
meetings

(4) The Committee shall meet at least four times each year.
New.

Powers of
chief or
regional
senior judge

93.—(1) The powers and duties of a judge who has authority to supervise and direct the sittings and the assignment of the judicial duties of his or her court include the following:

1. Determining the sittings of the court.
2. Assigning judges to the sittings.
3. Assigning cases to individual judges.
4. Determining the sitting schedules and places of sittings for individual judges.
5. Determining the total annual, monthly and weekly workload of individual judges.
6. Preparing trial lists and assigning courtrooms, to the extent necessary to control the determination of who is assigned to hear particular cases. 1984, c. 11, s. 93, *amended*.

(2) Subsection (1) applies with necessary modifications in respect of supervising and directing the sittings and assigning the judicial duties of masters. *New.*

Powers in respect of masters

4. Section 94 of the said Act is amended by adding thereto the following subsections:

(2) A power or duty given to a registrar, sheriff, court clerk, assessment officer or official examiner under an Act, regulation or rule of court may be exercised or performed by a person or class of persons to whom the power or duty has been assigned by the Deputy Attorney General or a person designated by the Deputy Attorney General.

Exercise of powers of registrar, sheriff, etc.

(3) Subsection (2) applies in respect of an Act, regulation or rule of court made under the authority of the Legislature or of the Parliament of Canada.

Idem

5. The said Act is amended by adding thereto the following section:

95a. Documents and other material that are no longer required in a court office shall be disposed of in accordance with the directions of the Deputy Attorney General, subject to the approval of,

Destruction of documents

- (a) in the Court of Appeal, the Chief Justice of Ontario;
- (b) in the Ontario Court (General Division), the Chief Justice of the Ontario Court;

- (c) in the Ontario Court (Provincial Division), the Chief Judge of the Provincial Division;
- (d) in the Unified Family Court, the Senior Judge for the Unified Family Court. 1984, c. 11, s. 101 (4), *amended*.

6. Section 98 of the said Act is repealed and the following substituted therefor:

Liability of
judges

98. Every judge of a court in Ontario and every master has the same immunity from liability as a judge of the Ontario Court (General Division).

7. Section 99 of the said Act is repealed and the following substituted therefor:

Compensation for
statutory
duties

99. Every judge who was a judge of the Supreme Court or of the District Court before this section comes into force shall be paid out of the Consolidated Revenue Fund the annual sum of \$3,000, payable quarterly, as compensation for the services the judge is called on to render by any Act of the Legislature in addition to his or her ordinary duties.

8. Subsection 100 (1) of the said Act is amended by striking out "Supreme Court or the District Court" in the first and second lines and inserting in lieu thereof "Court of Appeal or the Ontario Court (General Division)".

9. The said Act is further amended by adding thereto the following sections:

Judges'
gowns

100a. The Lieutenant Governor in Council may make regulations respecting the form of the gown to be worn in court by all judges appointed after this section comes into force.

How certain
judges to be
addressed

100b.—(1) Every judge of the Ontario Court (General Division) and the Unified Family Court may be addressed as "Your Honour" or as "(*Mr. or Mme.*) Justice (*naming the judge*)".

Idem

(2) A judge appointed to the High Court of Justice before this section comes into force may elect to be addressed according to the practice in existence before this section comes into force.

10. Section 101 of the said Act is repealed and the following substituted therefor:

101.—(1) Every person who was a master of the Supreme Court before this section comes into force is a master of the Ontario Court (General Division). *New.*

Masters

(2) Every master has the jurisdiction conferred by the rules of court in proceedings in the General Division. 1984, c. 11, s. 20 (3).

Jurisdiction

(3) Sections 42 to 49 apply with necessary modifications to masters in the same manner as to provincial judges. 1984, c. 11, s. 20 (11), *amended.*

Application of ss. 42-49

(4) The right of a master to continue in office under subsection 43 (3) is subject to the approval of the Chief Justice of the Ontario Court and not of the Chief Judge of the Provincial Division. *New.*

Idem

101a.—(1) Money paid into the Ontario Court (General Division) shall be paid to the Accountant of the Ontario Court and such money and securities in which the money is invested are vested in the Accountant.

Money vested in Accountant

(2) Mortgages and other securities taken under an order of the Ontario Court (General Division) and instruments taken as security in respect of a proceeding in the Ontario Court (General Division) shall be taken in the name of the Accountant and shall be deposited in his or her office, except where an order provides otherwise.

Security held by Accountant

(3) The Accountant has no duty or obligation in respect of the instruments deposited under subsection (2) except as custodian of the instruments, unless an order of the court provides otherwise.

Idem

(4) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Accountant. 1984, c. 11, s. 22, *amended.*

Audit by Provincial Auditor

101b.—(1) The finance committee is continued and shall be composed of three persons appointed by the Lieutenant Governor in Council.

Finance committee

(2) The finance committee has control and management of the money in the Ontario Court (General Division), the investment of the money and the securities in which it is invested.

Management of court funds

(3) Money that is available for investment shall be invested in investments in which the Treasurer of Ontario may invest

Investment of court funds

R.S.O. 1980, c. 161 public money under section 3 of the *Financial Administration Act*.

Employment of trust company (4) The finance committee may employ a trust company to make the investments or act as custodian of the securities purchased as investments.

Interest (5) The finance committee may provide for the payment of interest on money paid into the General Division and may fix the rate of interest so paid.

Reserve funds (6) The finance committee may establish such reserve funds as it considers necessary. 1984, c. 11, s. 23, *amended*.

11. Subsection 102 (3) of the said Act is amended by striking out “Rules of Civil Procedure” in the third line and inserting in lieu thereof “rules of court”.

12. Section 103 of the said Act is repealed and the following substituted therefor:

Assessment officers **103.**—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint assessment officers.

Idem (2) Every master is an assessment officer.

Jurisdiction (3) Every assessment officer has jurisdiction to assess costs in a proceeding in any court.

Appeal from assessment of costs before tribunal (4) Where costs of a proceeding before a tribunal other than a court are to be assessed by an assessment officer,

(a) the rules of court governing the procedure on an assessment of costs apply with necessary modifications; and

(b) an appeal lies to the Ontario Court (General Division) on a certificate of assessment of the costs if an objection was served in respect of the issue appealed in accordance with the rules of court.

13.—(1) Subsection 104 (1) of the said Act is repealed.

(2) Subsection 104 (2) of the said Act is amended by striking out “additional” in the second line.

14.—(1) Subsection 108 (2) of the said Act is amended by striking out “and” where it occurs the second time in the third

line and by inserting after “hearing)” in the fourth line “and 153a (where procedures not provided)”.

(2) Subsection 108 (3) of the said Act, as amended by the Statutes of Ontario, 1989, chapter 24, section 4, is repealed and the following substituted therefor:

(3) Sections 122 (constitutional questions), 135, 136 (language of proceedings), 142 (judge sitting on appeal), 146 (prohibition against photography at court hearings), 152a (arrest and committal warrants enforceable by police) and 153a (where procedures not provided) also apply to proceedings under the *Provincial Offences Act* and, for the purpose, a reference in one of those sections to a judge includes a justice of the peace presiding in the Ontario Court (Provincial Division).

Application
to provincial
offences

R.S.O. 1980,
c. 400

15. Subsection 109 (3) of the said Act is repealed and the following substituted therefor:

(3) Only the Court of Appeal, the Unified Family Court and the Ontario Court (General Division), may grant equitable relief, unless otherwise provided.

Jurisdiction
for equitable
relief

16. Section 110 of the said Act is amended by striking out “Supreme Court, the District Court and the Unified Family Court” in the first and second lines and inserting in lieu thereof “Court of Appeal, the Unified Family Court and the Ontario Court (General Division)”.

17. Subsection 114 (1) of the said Act is amended by striking out “Supreme Court, the District Court or the Unified Family Court” in the first and second lines and inserting in lieu thereof “Unified Family Court or the Ontario Court (General Division)”.

18.—(1) Subsection 118 (1) is repealed and the following substituted therefor:

(1) In this section, “health practitioner” means a person licensed to practise medicine or dentistry in Ontario or any other jurisdiction, a psychologist registered under the *Psychologists Registration Act* or a person certified or registered as a psychologist by another jurisdiction.

“health
practitioner”
defined
R.S.O. 1980,
c. 404

(2) Subsection 118 (2) of the said Act is amended by striking out “medical” in the fourth line and inserting in lieu thereof “health”.

(3) Subsection 118 (5) of the said Act is amended by striking out “medical” in the second line and inserting in lieu thereof “health”.

19. Subsections 120 (2) and (3) of the said Act are repealed and the following substituted therefor:

Transfer
from Small
Claims Court

(2) A proceeding in the Small Claims Court shall not be transferred under clause (1) (d) to the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Idem

(2a) A proceeding in the Small Claims Court shall not be required under subclause (1) (e) (ii) to be asserted by way of counterclaim in a proceeding in the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Motions

(3) The motion shall be made to a judge of the Ontario Court (General Division).

20.—(1) Subsection 121 (1) of the said Act is amended by striking out “a Supreme Court or District Court action” in the first line and inserting in lieu thereof “an action in the Ontario Court (General Division) that is not in the Small Claims Court”.

(2) Subsection 121 (2) of the said Act is amended by striking out “Actions in which a claim is made for any of the following kinds of relief shall be heard without a jury:” in the first and second lines and inserting in lieu thereof “The issues of fact and the assessment of damages in an action shall be tried without a jury in respect of a claim for any of the following kinds of relief:”.

(3) Paragraph 3 of the said subsection 121 (2) is amended by striking out “*Family Law Reform Act*” in the first and second lines and inserting in lieu thereof “*Family Law Act, 1986*”.

21. Subsection 122 (2) of the said Act is amended by striking out “Rules of Civil Procedure” in the second line and inserting in lieu thereof “rules of court”.

22. Subsection 124 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Mutual debts may be set off against each other even if they are of a different nature.

23. Clause 129 (b) of the said Act is amended by striking out “*Family Law Reform Act*” in the first line and inserting in lieu thereof “*Family Law Act, 1986*”.

24.—(1) Clause 133 (1) (a) of the said Act is amended by striking out “the” in the first line and inserting in lieu thereof “a”.

(2) Clause 133 (1) (b) of the said Act is amended by striking out “local judge or”.

25.—(1) Subclause 136 (1) (a) (ii) of the said Act is repealed and the following substituted therefor:

(ii) the area that comprised the County of Welland as it existed on the 31st day of December, 1969,

(iia) The Regional Municipality of Ottawa-Carleton,

(iib) The Municipality of Metropolitan Toronto.

(2) Subsection 136 (6) of the said Act is amended by striking out “Provincial Court (Family Division) or the Provincial Court (Civil Division)” in the second and third lines and inserting in lieu thereof “Ontario Court (Provincial Division) or the Small Claims Court”.

(3) Subsection 136 (7) of the said Act is amended by striking out “in the Provincial Offences Court where it is” in the second and third lines and inserting in lieu thereof “under the *Provincial Offences Act* in”.

26. Subsection 137 (2) of the said Act is amended by striking out “the Registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “a person designated by the Deputy Attorney General”.

27.—(1) Subsection 150 (1) of the said Act is amended by striking out “Supreme Court” in the first line and in the last line and inserting in lieu thereof in each instance “Ontario Court (General Division)”.

(2) Subsection 150 (3) of the said Act is amended by striking out “Supreme Court” in the fourth line and inserting in lieu thereof “Ontario Court (General Division)”.

28. The said Act is further amended by adding thereto the following sections:

Civil orders directed to sheriffs

150a.—(1) Unless an Act provides otherwise, orders of a court arising out of a civil proceeding and enforceable in Ontario shall be directed to a sheriff for enforcement.

Police to assist sheriff

(2) A sheriff who believes that the execution of an order may give rise to a breach of the peace may require a police officer to accompany the sheriff and assist in the execution of the order.

.

Where procedures not provided

153a. Jurisdiction conferred on a court, a judge or a justice of the peace shall, in the absence of express provision for procedures for its exercise in any Act, regulation or rule, be exercised in any manner consistent with the due administration of justice. 1984, c. 11, s. 62, *amended*.

29. Sections 157 and 158 of the said Act are repealed and the following substituted therefor:

Continuation of proceedings in former courts

157. A proceeding pending in a court set out in column 1 of the Table when this section comes into force is continued in the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	High Court of Justice	Ontario Court (General Division)
2.	District Court	Ontario Court (General Division)
3.	surrogate court	Ontario Court (General Division)
4.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
5.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
6.	Provincial Offences Court	Ontario Court (Provincial Division)
7.	Provincial Court (Civil Division)	Small Claims Court

Former Chief Judge, etc.

158.—(1) A provincial judge who was a Chief Judge, Associate Chief Judge or senior judge of the Provincial Court (Criminal Division), the Provincial Court (Family Division) or the Provincial Court (Civil Division) immediately before this section comes into force shall continue to hold the office of provincial judge, is entitled to retain the title of Chief Judge, Associate Chief Judge or senior judge, as the case may be, and is entitled to an annual salary equal to the greater of,

- (a) the current annual salary of a provincial judge; or
- (b) the annual salary the judge received immediately before this section comes into force.

(2) A master who was the Senior Master immediately before this section comes into force shall continue to hold the office of master, is entitled to retain the title of Senior Master and is entitled to an annual salary equal to the greater of,

Former
Senior
Master

- (a) the current annual salary of a master; or
- (b) the annual salary the master received immediately before this section comes into force.

158a.—(1) A document filed in court that refers to a court set out in column 1 of the Table to section 160 is not by that reason invalid and shall be deemed to refer to the court set out opposite to it in column 2.

Documents
filed

(2) Subsection (1) is repealed one year after this section comes into force.

Subsection
repealed

30. Section 159 of the said Act is repealed and the following substituted therefor:

159. Where, by an Act or regulation, jurisdiction is conferred on a particular court set out in column 1 of the Table, the jurisdiction shall be deemed to be conferred on the corresponding court set out in column 2 sitting in the county or district of the court named.

Reference to
territorial
jurisdiction

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	county or district court	Ontario Court (General Division)
2.	surrogate court	Ontario Court (General Division)
3.	provincial court (family division)	Ontario Court (Provincial Division)
4.	provincial offences court	Ontario Court (Provincial Division)
5.	small claims court	Small Claims Court

31. Section 160 of the said Act is repealed and the following substituted therefor:

References to
courts

160. A reference in an Act, rule or regulation to a court set out in column 1 of the Table is deemed to be a reference to the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Supreme Court	Ontario Court (General Division)
2.	High Court of Justice	Ontario Court (General Division)
3.	county or district court	Ontario Court (General Division)
4.	District Court	Ontario Court (General Division)
5.	surrogate court	Ontario Court (General Division)
6.	small claims court	Small Claims Court
7.	Provincial Court (Civil Division)	Small Claims Court
8.	provincial court (criminal division)	Ontario Court (Provincial Division)
9.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
10.	provincial court (family division)	Ontario Court (Provincial Division)
11.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
12.	provincial offences court	Ontario Court (Provincial Division)
13.	Provincial Offences Court	Ontario Court (Provincial Division)

Changes in
terminology

160a.—(1) A reference in any Act, rule or regulation, or order or other court process, to a term set out in column 1 of the Table, or any form thereof, is deemed to refer to the corresponding term set out opposite thereto in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Accountant of the Supreme Court	Accountant of the Ontario Court
2.	administrator <i>ad litem</i>	litigation administrator
3.	certificate of <i>lis pendens</i>	certificate of pending litigation
4.	conduct money	attendance money
5.	guardian <i>ad litem</i>	litigation guardian
6.	judicial district	county or district

7.	local judge of the High Court	judge of the Ontario Court (General Division)
8.	local judge of the Supreme Court	judge of the Ontario Court (General Division)
9.	next friend	litigation guardian
10.	originating motion	application
11.	originating notice	notice of application
12.	praecipe	requisition
13.	provisional judicial district	territorial district
14.	a registrar of a surrogate court	the local registrar of the Ontario Court (General Division)
15.	Rules of Civil Procedure	rules of court
16.	Rules Committee	applicable rules committee
17.	Rules Committee of the Supreme and District Courts	applicable rules committee
18.	Rules of Practice and Procedure of the Supreme Court of Ontario made by the Rules Committee	rules of court
19.	special examiner	official examiner
20.	Surrogate Clerk for Ontario	Estate Registrar for Ontario
21.	taxation of costs	assessment of costs
22.	taxing officer	assessment officer
23.	writ of <i>fiery facias</i>	writ of seizure and sale
24.	writ of summons	statement of claim or notice of action

(2) A reference in any Act, rule or regulation to the surrogate registrar for a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem, surrogate registrar for a county

(3) A reference in any Act, rule or regulation to the clerk of a county or district court of a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem, clerk of a county

(4) A reference in any Act, rule or regulation to an order, direction or decision filed with the Registrar of the Supreme Court is deemed to be a reference to an order, direction or decision filed with the Ontario Court (General Division).

Idem, order filed with the Registrar

160b. Where an Act, rule or regulation provides that a document is to be filed with, certified to, forwarded to or transmitted to the Supreme Court or the Registrar of the Supreme Court for the purpose of an appeal to the Divisional

Documents filed for appeal to Divisional Court

Court, that document shall be filed with, certified to, forwarded to or transmitted to, as the case may be, the Divisional Court.

References to
counties for
judicial
purposes

160c.—(1) A reference in this Act or any other Act, rule or regulation to a county or district for judicial purposes is deemed to be a reference to the corresponding area that, for municipal or territorial purposes, comprises the county, district, union of counties or regional, district or metropolitan municipality.

Separated
municipalities

(2) For the purpose of subsection (1), every city, town and other municipality is united to and forms part of the county in which it is situate.

Exceptions

(3) Subsection (1) is subject to the following:

1. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Haldimand-Norfolk, deemed to be a reference to the following areas:
 - i. All the area of the County of Haldimand as it existed on the 31st day of March, 1974.
 - ii. All the area of the County of Norfolk as it existed on the 31st day of March, 1974.
2. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Niagara, deemed to be a reference to the following areas:
 - i. All the area of the County of Lincoln as it existed on the 31st day of December, 1969.
 - ii. All the area of the County of Welland as it existed on the 31st day of December, 1969.
3. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Sudbury and the Territorial District of Sudbury, deemed to be a reference to all the area in The Regional Municipality of Sudbury and in the Territorial District of Sudbury.
4. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of an area described below, deemed to be a reference to all the area in the areas described below:

- i. All the area in the County of Victoria.
- ii. All the area in the County of Haliburton.
- iii. All the area in any part of the townships of Sherborne, McClintock, Livingstone, Lawrence and Nightingale located in Algonquin Park, so long as the part remains part of Algonquin Park.

32. Section 212 of the said Act is repealed.

33. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

34. The short title of this Act is the *Courts of Justice Amendment Act, 1989*. Short title

Bill 2

(Chapter 55
Statutes of Ontario, 1989)

An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General



<i>1st Reading</i>	May 1st, 1989
<i>2nd Reading</i>	June 14th, 1989
<i>3rd Reading</i>	November 14th, 1989
<i>Royal Assent</i>	November 15th, 1989

Bill 2**1989****An Act to amend the Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:

1. In this Act,

Definitions

“action” means a civil proceeding that is not an application and includes a proceeding commenced by,

- (a) claim,
- (b) statement of claim,
- (c) notice of action,
- (d) counterclaim,
- (e) crossclaim,
- (f) third or subsequent party claim, or
- (g) divorce petition or counterpetition;

“application” means a civil proceeding that is commenced by notice of application or by application;

“defendant” means a person against whom an action is commenced;

“hearing” includes a trial;

“motion” means a motion in a proceeding or an intended proceeding;

“order” includes a judgment or decree;

“plaintiff” means a person who commences an action;

“region” means a region prescribed under section 92a. 1984, c. 11, s. 1, *amended*.

2. Parts I and II, Part III, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, section 1, 1985, chapter 1, section 4, 1986, chapter 7, section 15 and 1987, chapter 1, sections 1, 2 and 3, Part IV, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, sections 2, 3, 4 and 5 and 1987, chapter 1, sections 4, 5 and 6 and Part V, as amended by the Statutes of Ontario, 1984, chapter 64, sections 6 and 7, of the said Act are repealed and the following substituted therefor:

PART I

COURT OF APPEAL FOR ONTARIO

Court of
Appeal

2.—(1) The branch of the Supreme Court of Ontario named the Court of Appeal for Ontario is continued as a superior court of record named the Court of Appeal for Ontario.

Idem

(2) In exercising its jurisdiction, the Court of Appeal has all the power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2, *amended*.

Composition
of court

3.—(1) The Court of Appeal shall consist of,

- (a) the Chief Justice of Ontario, who shall be president of the court;
- (b) the Associate Chief Justice of Ontario; and
- (c) such number of other judges as is fixed under subsection (2), to be called justices of appeal. 1984, c. 11, s. 3 (1), *amended*.

Number of
judges

(2) The Lieutenant Governor in Council may by regulation fix the number of judges of the Court of Appeal who are in addition to the Chief Justice and the Associate Chief Justice.

Idem

(3) A reduction in the number of judges does not affect appointments existing at the time of the reduction. *New*.

Additional
judges

(4) There shall be such additional offices of judge of the Court of Appeal as are from time to time required, to be held by Chief Justices of Ontario and Associate Chief Justices of

Ontario who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Court of Appeal. 1984, c. 11, s. 6 (1), *amended*. R.S.C. 1985, c. J-1

(5) There shall be such additional offices of supernumerary judge of the Court of Appeal as are from time to time required, to be held by judges of the Court of Appeal who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of the court. 1984, c. 11, s. 6 (3), *amended*. Super-numerary judges

4.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Justice of the Ontario Court, may assign a judge of the Ontario Court (General Division) to perform the work of a judge of the Court of Appeal. 1984, c. 11, s. 9 (2), *amended*. Assignment of judges from General Division

(2) A judge of the General Division is, by virtue of his or her office, a judge of the Court of Appeal and has all the jurisdiction, power and authority of a judge of the Court of Appeal. 1984, c. 11, s. 8, *amended*. General Division judges

5.—(1) The Chief Justice of Ontario has general supervision and direction over the sittings of the Court of Appeal and the assignment of the judicial duties of the court. 1984, c. 11, s. 18 (5). Powers and duties of Chief Justice

(2) If the Chief Justice of Ontario is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by the Associate Chief Justice of Ontario. Absence of Chief Justice

(3) If the Chief Justice of Ontario and the Associate Chief Justice of Ontario are both absent from Ontario or for any reason unable to act, the powers and duties of the Chief Justice shall be exercised and performed by a judge of the Court of Appeal designated by the Chief Justice or Associate Chief Justice. 1984, c. 11, s. 3 (2), *amended*. Absence of Associate Chief Justice

6.—(1) An appeal lies to the Court of Appeal from, Court of Appeal jurisdiction

(a) an order of the Divisional Court, on a question that is not a question of fact alone, with leave as provided in the rules of court;

(b) a final order of a judge of the Ontario Court (General Division), except an order referred to in clause 18 (1) (a);

- (c) a certificate of assessment of costs issued in a proceeding in the Court of Appeal, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 17 (1), *amended*.

Combining of
appeals from
other courts

- (2) The Court of Appeal has jurisdiction to hear and determine an appeal that lies to the Divisional Court or the Ontario Court (General Division) if an appeal in the same proceeding lies to and is taken to the Court of Appeal.

Idem

- (3) The Court of Appeal may, on motion, transfer an appeal that has already been commenced in the Divisional Court or the Ontario Court (General Division) to the Court of Appeal for the purpose of subsection (2). 1984, c. 11, s. 17 (2), *amended*.

Composition
of court for
hearings

- 7.—**(1) A proceeding in the Court of Appeal shall be heard and determined by not fewer than three judges sitting together, and always by an uneven number of judges. 1984, c. 11, s. 18 (1), *amended*.

Idem,
motions

- (2) A motion in the Court of Appeal and an appeal under clause 6 (1) (c) shall be heard and determined by one judge.

Idem

- (3) Subsection (2) does not apply to a motion for leave to appeal, a motion to quash an appeal or any other motion that is specified by the rules of court.

Idem

- (4) A judge assigned to hear and determine a motion may adjourn the motion to a panel of the Court of Appeal.

Idem

- (5) A panel of the Court of Appeal may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 18 (3), *amended*.

References to
Court of
Appeal

- 8.—**(1) The Lieutenant Governor in Council may refer any question to the Court of Appeal for hearing and consideration.

Opinion of
court

- (2) The court shall certify its opinion to the Lieutenant Governor in Council, accompanied by a statement of the reasons for it, and any judge who differs from the opinion may certify his or her opinion and reasons in the same manner.

Submissions
by Attorney
General

- (3) On the hearing of the question, the Attorney General of Ontario is entitled to make submissions to the court.

Idem

- (4) The Attorney General of Canada shall be notified and is entitled to make submissions to the court if the question relates to the constitutional validity or constitutional applica-

bility of an Act, or of a regulation or by-law made under an Act, of the Parliament of Canada or the Legislature.

(5) The court may direct that any person interested, or any one or more persons as representatives of a class of persons interested, be notified of the hearing and be entitled to make submissions to the court. Notice

(6) If an interest affected is not represented by counsel, the court may request counsel to argue on behalf of the interest and the reasonable expenses of counsel shall be paid by the Treasurer of Ontario. Appointment of counsel

(7) The opinion of the court shall be deemed to be a judgment of the court and an appeal lies from it as from a judgment in an action. 1984, c. 11, s. 19. Appeal

PART II

ONTARIO COURT OF JUSTICE

9.—(1) The Ontario Court of Justice is established. Ontario Court

(2) The Ontario Court shall consist of two divisions, the General Division and the Provincial Division. *New.* Divisions

ONTARIO COURT (GENERAL DIVISION)

10.—(1) The branch of the Supreme Court of Ontario named the High Court of Justice for Ontario is continued as a superior court of record named the Ontario Court (General Division). General Division

(2) The General Division has all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2 (1), *amended.* Idem

11.—(1) The General Division shall consist of, Composition of General Division

- (a) the Chief Justice of the Ontario Court, who shall be president of the Ontario Court;
- (b) a regional senior judge of the General Division for each region;
- (c) a senior judge of the General Division for the Unified Family Court; and

- (d) such number of judges of the General Division as is fixed under clause 52 (1) (a). 1984, c. 11, s. 4 (1), *amended*.

Additional
judges

R.S.C. 1985,
c. J-1

(2) There shall be such additional offices of judge of the General Division as are from time to time required, to be held by Chief Justices of the Ontario Court and regional senior judges of the General Division who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Ontario Court. 1984, c. 11, s. 6 (1), *amended*.

Super-
numerary
judges

(3) There shall be such additional offices of supernumerary judge of the General Division as are from time to time required, to be held by judges of the General Division who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of that division. 1984, c. 11, s. 6 (3), *amended*.

Assignment
of judges
from Court
of Appeal

12.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Justice of the Ontario Court, may assign a judge of the Court of Appeal to perform the work of a judge of the General Division. 1984, c. 11, s. 9 (1), *amended*.

Court of
Appeal
judges

(2) A judge of the Court of Appeal is, by virtue of his or her office, a judge of the General Division and has all the jurisdiction, power and authority of a judge of the General Division. 1984, c. 11, s. 8, *amended*.

Powers and
duties of
Chief Justice
of Ontario
Court

13.—(1) The Chief Justice of the Ontario Court shall direct and supervise the sittings of the Ontario Court (General Division) and the assignment of its judicial duties.

Regional
senior
judges,
General
Division

(2) A regional senior judge of the General Division shall, subject to the authority of the Chief Justice of the Ontario Court, exercise the powers and perform the duties of the Chief Justice in respect of the General Division in his or her region.

Delegation

(3) A regional senior judge of the General Division may delegate to a judge of the General Division in his or her region the authority to exercise specified functions. *New*.

Absence of
Chief Justice
of Ontario
Court

(4) If the Chief Justice of the Ontario Court is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the General Division designated by the Chief Justice of the Ontario Court. 1984, c. 11, s. 4 (3), *amended*.

Absence of
regional
senior judge
of General
Division

(5) The powers and duties of a regional senior judge of the General Division who is absent from Ontario or is for any rea-

son unable to act shall be exercised and performed by a judge of the General Division designated by the Chief Justice of the Ontario Court.

(6) The Chief Justice of the Ontario Court may hold meetings with the regional senior judges of the General Division in order to consider any matters concerning sittings of the General Division and the assignment of its judicial duties. *New.* Meetings with regional senior judges

14.—(1) The Chief Justice of the Ontario Court shall assign every judge of the General Division to a region and may re-assign a judge from one region to another. Judges assigned to regions

(2) There shall be at least one judge of the General Division assigned to each county and district. At least one judge in each county

(3) No judge of the General Division who was a judge of the High Court of Justice or the District Court of Ontario before this section comes into force shall be assigned without his or her consent to a region other than the region in which he or she resided immediately before this section comes into force. High Court and District Court judges

(4) Subsections (1) to (3) do not prevent the temporary assignment of a judge to a location anywhere in Ontario. *New.* Idem

15. A proceeding in the General Division shall be heard and determined by one judge of the General Division. 1984, c. 11, s. 14 (1), *amended.* Composition of court for hearings

16. An appeal lies to the General Division from, Appeals to General Division

(a) an interlocutory order of a master;

(b) a certificate of assessment of costs issued in a proceeding in the General Division, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 13 (2), *amended.*

DIVISIONAL COURT

17.—(1) There shall be a branch of the General Division to be known as the Divisional Court consisting of the Chief Justice of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Justice designates from time to time. Divisional Court

(2) Every judge of the General Division is also a judge of the Divisional Court. 1984, c. 11, s. 5, *amended.* Jurisdiction of judges

Divisional
Court
jurisdiction

18.—(1) An appeal lies to the Divisional Court from,

(a) a final order of a judge of the General Division,

(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii);

(b) an interlocutory order of a judge of the General Division, with leave as provided in the rules of court;

(c) a final order of a master. 1984, c. 11, s. 15 (1), *amended*.

Combining of
appeals from
General
Division

(2) The Divisional Court has jurisdiction to hear and determine an appeal that lies to the General Division if an appeal in the same proceeding lies to and is taken to the Divisional Court.

Idem

(3) The Divisional Court may, on motion, transfer an appeal that has already been commenced in the General Division to the Divisional Court for the purpose of subsection (2). 1984, c. 11, s. 15 (2), *amended*.

Appeal from
interlocutory
orders

(4) No appeal lies from an interlocutory order of a judge of the General Division made on an appeal from an interlocutory order of the Provincial Division. 1984, c. 11, s. 36 (4), *amended*.

Appeals
heard in
regions

19.—(1) An appeal to the Divisional Court shall be heard in the region in which the order appealed from was made, unless the parties agree otherwise.

(2) Any other proceeding in the Divisional Court may be brought in any region. *New.* Other proceedings in any region

20.—(1) A proceeding in the Divisional Court shall be heard and determined by three judges sitting together. Composition of court for hearings

(2) A proceeding in the Divisional Court may be heard and determined by one judge where the proceeding, Idem

(a) is an appeal under clause 18 (1) (c);

(b) is an appeal under section 30 from a provincial judge or a deputy judge presiding over the Small Claims Court; or

(c) is in a matter that the Chief Justice of the Ontario Court or a judge designated by the Chief Justice is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard and determined by one judge.

(3) A motion in the Divisional Court shall be heard and determined by one judge, unless otherwise provided by the rules of court. Idem, motions

(4) A judge assigned to hear and determine a motion may adjourn it to a panel of the Divisional Court. Idem

(5) A panel of the Divisional Court may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 16, *amended.* Idem

SMALL CLAIMS COURT

21.—(1) There shall be a branch of the General Division to be known as the Small Claims Court consisting of the Chief Justice of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Justice designates from time to time. Small Claims Court

(2) Every judge of the General Division is also a judge of the Small Claims Court. *New.* Jurisdiction of judges

22.—(1) The Small Claims Court, Jurisdiction

(a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed the prescribed amount exclusive of interest and costs; and

- (b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed the prescribed amount. 1984, c. 11, s. 78 (1), *amended*.

Transfer
from General
Division

(2) An action in the General Division may be transferred to the Small Claims Court by the local registrar of the General Division on requisition with the consent of all parties filed before the trial commences if,

- (a) the only claim is for the payment of money or the recovery of possession of personal property; and
- (b) the claim is within the jurisdiction of the Small Claims Court.

Idem

(3) An action transferred to the Small Claims Court shall be titled and continued as if it had been commenced in that court. 1984, c. 11, s. 84, *amended*.

Composition
of court for
hearings

23.—(1) A proceeding in the Small Claims Court shall be heard and determined by one judge of the General Division.

Provincial
judge or
deputy judge
may preside

(2) A proceeding in the Small Claims Court may also be heard and determined by,

- (a) a provincial judge who was assigned to the Provincial Court (Civil Division) immediately before this section comes into force; or
- (b) a deputy judge appointed under section 31.

Where
deputy judge
not to
preside

(3) A deputy judge shall not hear and determine an action,

- (a) for the payment of money in excess of the prescribed amount; or
- (b) for the recovery of possession of personal property exceeding the prescribed amount in value. *New*.

Summary
hearings

24. The Small Claims Court shall hear and determine in a summary way all questions of law and fact and may make such order as is considered just and agreeable to good conscience. 1984, c. 11, s. 78 (3), *amended*.

Representation

25. A party may be represented in a proceeding in the Small Claims Court by counsel or an agent but the court may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party if it finds that such person is not compe-

tent properly to represent the party or does not understand and comply at the hearing with the duties and responsibilities of an advocate. 1984, c. 11, s. 79, *amended*.

26.—(1) Subject to subsections (3) and (4), the Small Claims Court may admit as evidence at a hearing and act upon any oral testimony and any document or other thing so long as the evidence is relevant to the subject-matter of the proceeding, but the court may exclude anything unduly repetitious. Evidence

(2) Subsection (1) applies whether or not the evidence is given or proven under oath or affirmation or admissible as evidence in any other court. Idem

(3) Nothing is admissible in evidence at a hearing, Idem

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any Act.

(4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding. Conflicts

(5) A copy of a document or any other thing may be admitted as evidence at a hearing if the presiding judge is satisfied as to its authenticity. 1984, c. 11, s. 80, *amended*. Copies

27. The Small Claims Court may order the times and the proportions in which money payable under an order of the court shall be paid. 1984, c. 11, s. 81, *amended*. Instalment orders

28. An award of costs in the Small Claims Court, other than disbursements, shall not exceed 15 per cent of the amount claimed or the value of the property sought to be recovered unless the court considers it necessary in the interests of justice to penalize a party, counsel or agent for unreasonable behaviour in the proceeding. *New*. Limit on costs

29. Orders of the Small Claims Court shall be directed to a bailiff appointed under subsection 32 (1) for enforcement, unless otherwise provided by the rules of court. 1984, c. 11, s. 82, *amended*. Enforcement of orders

30. An appeal lies to the Divisional Court from a final order of the Small Claims Court in an action, Appeals

- (a) for the payment of money in excess of \$500, excluding costs; or
- (b) for the recovery of possession of personal property exceeding \$500 in value. 1984, c. 11, s. 83, *amended*.

Deputy
judges

31.—(1) A regional senior judge of the General Division may, with the approval of the Attorney General, appoint a barrister and solicitor to act as a deputy judge of the Small Claims Court for a term of three years.

Idem

(2) A regional senior judge of the General Division may renew the appointment of a deputy judge for one or more three-year terms.

Idem

(3) The appointment of a person who was a deputy judge immediately before this section comes into force is deemed to be renewed under subsection (2) on the day this section comes into force. *New*.

Clerk and
bailiff of
Small Claims
Court

32.—(1) There shall be a clerk and one or more bailiffs for each division of the Small Claims Court who shall be appointed by the Lieutenant Governor in Council.

Idem

(2) With the approval of the Deputy Attorney General or the person designated by the Deputy Attorney General, every clerk and bailiff of the Small Claims Court in a division that is not designated under clause 52 (1) (g) may appoint in writing a deputy who may exercise and perform all the powers and duties of the clerk or bailiff.

Referee

(3) The Lieutenant Governor in Council may appoint a referee for a division of the Small Claims Court. 1984, c. 11, s. 86 (4, 5), *amended*.

PROVINCIAL DIVISION

Provincial
Division

33. The Provincial Court (Criminal Division), the Provincial Court (Family Division) and the Provincial Offences Court are amalgamated and continued as a court of record named the Ontario Court (Provincial Division). *New*.

Composition
of Provincial
Division

34. The Provincial Division shall consist of,

- (a) the Chief Judge of the Provincial Division appointed under subsection 41 (3), who shall be president of the Provincial Division;

- (b) a regional senior judge of the Provincial Division appointed under subsection 41 (4) for each region; and
- (c) such provincial judges as are appointed under subsection 41 (1). *New.*

35.—(1) The Chief Judge of the Provincial Division shall direct and supervise the sittings of the Provincial Division and the assignment of its judicial duties. 1984, c. 11, s. 63 (5), *amended.*

Powers and duties of Chief Judge of Provincial Division

(2) A regional senior judge of the Provincial Division shall, subject to the authority of the Chief Judge of the Provincial Division, exercise the powers and perform the duties of the Chief Judge of the Provincial Division in his or her region.

Regional senior judges, Provincial Division

(3) A regional senior judge of the Provincial Division may delegate to a judge of the Provincial Division in his or her region the authority to exercise specified functions. *New.*

Delegation

(4) If the Chief Judge of the Provincial Division is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the Provincial Division designated by the Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (7), *amended.*

Absence of Chief Judge of Provincial Division

(5) The powers and duties of a regional senior judge of the Provincial Division who is absent from Ontario or is for any reason unable to act shall be exercised and performed by a judge of the Provincial Division designated by the Chief Judge of the Provincial Division.

Absence of regional senior judge of Provincial Division

(6) The Chief Judge of the Provincial Division may hold meetings with the regional senior judges of the Provincial Division in order to consider any matters concerning sittings of the Provincial Division and the assignment of its judicial duties. *New.*

Meetings with regional senior judges

36.—(1) The Chief Judge of the Ontario Court (Provincial Division) shall assign every provincial judge to a region and may re-assign a judge from one region to another.

Judges assigned to regions

(2) Subsection (1) does not prevent the temporary assignment of a provincial judge to a location anywhere in Ontario. *New.*

Idem

37.—(1) A provincial judge has the power and authority of two or more justices of the peace when sitting in the

Criminal jurisdiction

Provincial Division and shall exercise the powers and perform the duties that any Act of the Parliament of Canada confers on a provincial court judge when sitting in the Provincial Division. 1984, c. 11, s. 67 (1), *amended*.

Provincial
offences and
family
jurisdiction
R.S.O. 1980,
c. 400
1986, c. 4

(2) The Provincial Division shall perform any function assigned to it by or under the *Provincial Offences Act*, the *Family Law Act*, 1986, the *Children's Law Reform Act*, the *Child and Family Services Act*, 1984 or any other Act. 1984, c. 11, s. 69, s. 75 (1) (a), (k), *amended*.

R.S.O. 1980,
c. 68
1984, c. 55

Youth court
jurisdiction
R.S.C. 1985,
c. Y-1

(3) The Provincial Division is a youth court for the purposes of the *Young Offenders Act* (Canada). 1984, c. 11, s. 67 (2), s. 75 (1) (b), *amended*.

Judge to
preside

38.—(1) A proceeding in the Provincial Division shall be heard and determined by one judge of the Provincial Division. 1984, c. 11, s. 66 (2), s. 74 (2), *amended*.

Justice of the
peace may
preside
R.S.O. 1980,
c. 400

(2) A justice of the peace may preside over the Provincial Division in a proceeding under the *Provincial Offences Act*. 1984, c. 11, s. 68 (2), *amended*.

Appeals

39.—(1) If no provision is made concerning an appeal from an order of the Provincial Division, an appeal lies to the General Division.

Exception
R.S.C. 1985,
c. C-46

(2) Subsection (1) does not apply to a proceeding under the *Criminal Code* (Canada) or the *Provincial Offences Act*. 1987, c. 1, s. 6, *amended*.

Penalty for
disturbance
outside
courtroom

40. Any person who knowingly disturbs or interferes with a proceeding in the Provincial Division without reasonable justification while outside the courtroom is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. 1984, c. 11, s. 72, *amended*.

PROVINCIAL JUDGES

Appointment
of provincial
judges

41.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such provincial judges as are considered necessary.

Qualifications

(2) No person shall be appointed as a provincial judge unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years. 1984, c. 11, s. 52.

(3) The Lieutenant Governor in Council may appoint a provincial judge as Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (1), *amended*. Chief Judge

(4) The Lieutenant Governor in Council may appoint a provincial judge to be the regional senior judge of the Provincial Division for each region. Regional senior judges

(5) The Chief Judge of the Provincial Division and the regional senior judges of the Provincial Division shall hold office for five years. Term of office

(6) If a successor is not appointed within five years, the Chief Judge or a regional senior judge shall continue in office until the successor is appointed, but in no case shall the Chief Judge or regional senior judge hold office for more than seven years. Idem

(7) A Chief Judge or a regional senior judge whose term of office expires under subsection (5) or (6) shall continue to hold the office of provincial judge and is entitled to an annual salary equal to the greater of, Former Chief Judge, etc.

(a) the current annual salary of a provincial judge; or

(b) the annual salary he or she received immediately before ceasing to be Chief Judge or regional senior judge.

(8) A Chief Judge or regional senior judge whose term of office expires under subsection (5) or (6) shall not be reappointed to the same position. *New*. Chief Judge, etc., not to be reappointed

42.—(1) A provincial judge shall devote his or her whole time to the performance of his or her duties as a judge, except as authorized by the Lieutenant Governor in Council. Other employment

(2) Despite subsection (1), a provincial judge who, before the 1st day of January, 1985, had the consent of the Attorney General to act as an arbitrator or conciliator may continue to so act. 1984, c. 11, s. 53, *amended*. Idem

43.—(1) Every provincial judge shall retire upon attaining the age of sixty-five years. Retirement

(2) Despite subsection (1), a provincial judge appointed as a full-time magistrate, judge of a juvenile and family court or master before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years. Idem

Continuation
of judges in
office

(3) A judge who has attained the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in office as a full-time or part-time judge until he or she attains the age of seventy years.

Idem

(4) A judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years.

Continuation
of regional
senior judge
in office

(5) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem

(6) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of seventy years may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years.

Continuation
of
Co-ordinator
in office
1989, c. 46

(7) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of sixty-five years, he or she may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem

(8) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of seventy years, he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. *New.*

Continuation
in office of
Chief Judge
of Provincial
Division

(9) Subject to subsections 41 (5) and (6), if the Chief Judge of the Provincial Division is in office upon attaining the age for retirement under subsection (1) or (2), he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. 1984, c. 11, s. 54, *amended.*

Resignation
of judge

44.—(1) A provincial judge may at any time resign from his or her office by delivering a signed letter of resignation to the Attorney General.

Resignation
as Chief
Judge, etc.

(2) A Chief Judge or a regional senior judge may, before the expiry of his or her term of office under subsection 41 (5)

or (6), elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General.

(3) The Co-ordinator of Justices of the Peace may, before the expiry of his or her term of office under subsection 13 (2) or (3) of the *Justices of the Peace Act, 1989*, elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General. *New.*

Resignation
of
Co-ordinator
1989, c. 46

(4) A resignation or election under this section takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day. 1984, c. 11, s. 55, s. 65, *amended.*

Effective
date

45.—(1) A provincial judge may be removed from office before attaining retirement age only if,

Removal for
cause

- (a) a complaint regarding the judge has been made to the Judicial Council; and
- (b) the removal is recommended by an inquiry held under section 49 on the ground that the judge has become incapacitated or disabled from the due execution of his or her office by reason of,
 - (i) infirmity,
 - (ii) conduct that is incompatible with the execution of his or her office, or
 - (iii) having failed to perform the duties of his or her office.

(2) An order removing a provincial judge from office under this section may be made by the Lieutenant Governor on the address of the Legislative Assembly. 1984, c. 11, s. 56, *amended.*

Order for
removal

46.—(1) The Judicial Council for Provincial Judges is continued as the Ontario Judicial Council and shall be composed of,

Judicial
Council

- (a) the Chief Justice of Ontario, who shall preside over the Ontario Judicial Council;
- (b) the Associate Chief Justice of Ontario;
- (c) the Chief Justice of the Ontario Court;

- (d) the Chief Judge of the Ontario Court (Provincial Division);
- (e) the Treasurer of The Law Society of Upper Canada; and
- (f) not more than two other persons appointed by the Lieutenant Governor in Council.

Quorum

(2) A majority of members of the Judicial Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Judicial Council.

Staff

R.S.O. 1980,
c. 418

(3) Such officers and employees of the Judicial Council as are considered necessary may be appointed under the *Public Service Act*.

Expert assistance

(4) The Judicial Council may engage persons, including counsel, to assist it in its investigations. 1984, c. 11, s. 57, *amended*.

Transition

(5) An investigation commenced by the Judicial Council before this section comes into force shall be continued by the Judicial Council as it was constituted before this section comes into force. *New*.

Functions

47.—(1) The functions of the Judicial Council are,

- (a) to consider all proposed appointments of provincial judges and make a report on them to the Attorney General;
- (b) to receive and investigate complaints against provincial judges.

Liability for damages

(2) No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer of it or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty. 1984, c. 11, s. 58.

Investigation of complaints

48.—(1) Where the Judicial Council receives a complaint against a provincial judge, it shall take such action to investigate the complaint as it considers advisable.

Referral to Chief Judge

(2) The Judicial Council may transmit those complaints it considers appropriate,

- (a) concerning provincial judges to the Chief Judge of the Provincial Division; and

- (b) concerning masters to the Chief Justice of the Ontario Court.

(3) The proceedings of the Judicial Council shall not be public, but it may inform the Attorney General respecting matters that it has investigated and the Attorney General may make public the fact that an investigation has been undertaken.

Proceedings
not public

(4) The Judicial Council may order that information or documents relating to its proceedings not be published or disclosed except as required by law.

Prohibiting
publication

(5) The Judicial Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers
R.S.O. 1980,
c. 411

(6) When the Judicial Council has dealt with a complaint regarding a provincial judge, it shall inform the following persons of its disposition of the complaint:

Notice of
disposition

1. The person who made the complaint.
2. If the complaint was brought to the attention of the judge, the judge.

(7) The Judicial Council may report its opinion regarding the complaint to the Attorney General and may recommend,

Report and
recommen-
dations

- (a) that an inquiry be held under section 49;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the investigation.

(8) A copy of a report made under subsection (7) shall be given to the judge.

Copy to
judge

(9) The Judicial Council shall not make a report under subsection (7) unless the judge was notified of the investigation and given an opportunity to be heard and to produce evidence on his or her behalf.

Right to be
heard

(10) When the Judicial Council makes a report to the Attorney General under subsection (7), the Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. 1984, c. 11, s. 59, *amended*.

Publication
of report

Inquiry

49.—(1) The Lieutenant Governor in Council may appoint a judge of the General Division to inquire into the question whether a provincial judge should be removed from office.

Powers
R.S.O. 1980,
c. 411

(2) The *Public Inquiries Act* applies to an inquiry under subsection (1).

Report

(3) The report of the inquiry may recommend,

- (a) that the judge be removed from office;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the inquiry.

Tabling of
report

(4) The report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session. 1984, c. 11, s. 60, *amended*.

Provincial
Judges
Remuneration
Commission

50.—(1) The committee known as the Ontario Provincial Courts Committee is continued as the Provincial Judges Remuneration Commission.

Composition
of
Commission

(2) The Commission shall be composed of the following three members:

- 1. One appointed jointly by the associations representing provincial judges.
- 2. One appointed by the Lieutenant Governor in Council.
- 3. One, who shall head the Commission, appointed jointly by the bodies referred to in paragraphs 1 and 2.

Function

(3) The function of the Provincial Judges Remuneration Commission is to inquire into and make recommendations to the Lieutenant Governor in Council respecting any matter relating to the remuneration, allowances and benefits of provincial judges, including the matters referred to in clauses 52 (1) (b) and (c).

Annual
report

(4) The Commission shall make an annual report of its activities to the Lieutenant Governor in Council.

Tabling of
recommen-
dations

(5) Recommendations of the Commission and its annual report shall be laid before the Legislative Assembly if it is in

session or, if not, within fifteen days of the commencement of the next session. 1984, c. 11, s. 88, *amended*.

MISCELLANEOUS

51.—(1) The judges of the Ontario Court of Justice shall meet at least once in each year, on a day fixed by the Chief Justice of the Ontario Court, in order to consider this Act, the rules of court and the administration of justice generally. Meeting of judges

(2) The judges shall report their recommendations to the Attorney General. 1984, c. 11, s. 10, *amended*. Idem

(3) The judges of the Ontario Court of Justice in each region shall meet at least once in each year, on a day fixed by the regional senior judge of the General Division, in order to consider this Act, the rules of court and the administration of justice in the region generally. Regional meeting of judges

(4) The judges shall report their recommendations to the Attorney General. *New*. Idem

52.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) fixing the number of judges of the General Division who are in addition to the Chief Justice, the regional senior judges and the Senior Judge for the Unified Family Court;
- (b) fixing the remuneration of provincial judges and masters;
- (c) providing for the benefits to which provincial judges and masters are entitled, including,
 - (i) leave of absence and vacations,
 - (ii) sick leave credits and payments in respect of those credits,
 - (iii) pension benefits for provincial judges, masters and their surviving spouses and children;
- (d) prescribing territorial divisions for the Small Claims Court;
- (e) prescribing the maximum amount of a claim in the Small Claims Court for the purposes of subsection 22 (1);

- (f) prescribing the maximum amount of a claim over which a deputy judge may preside for the purposes of subsection 23 (3);
- (g) providing for the retention of fees by clerks, bailiffs and referees of the Small Claims Court who are not civil servants under the *Public Service Act* and designating divisions where clerks, bailiffs and referees of the Small Claims Court may be appointed to a position as a civil servant under that Act;
- (h) prescribing the duties of clerks, bailiffs and referees of the Small Claims Court;
- (i) prescribing for each region the minimum number of judges of the General Division and of the Provincial Division who are to be assigned to that region. 1984, c. 11, s. 4 (2), s. 20 (4), s. 87 (1), *amended*.

R.S.O. 1980,
c. 418

Idem

(2) A reduction in the number of judges of the General Division under clause (1) (a) does not affect appointments existing at the time of the reduction. 1984, c. 11, s. 4 (2), *amended*.

Contributions

(3) Regulations made under clause (1) (c) may require judges and masters to contribute from their salaries part of the costs of benefits and may fix the amount of the contributions.

Application
of
R.S.O. 1980,
c. 419

(4) A regulation made under clause (1) (c) may modify or exclude the application of the *Public Service Superannuation Act*.

Application
of regulations

(5) A regulation made under subsection (1) may be general or particular in its application. 1984, c. 11, s. 20 (5-7), s. 87 (2-4), *amended*.

PART III

UNIFIED FAMILY COURT

Unified
Family Court

53. The Unified Family Court is continued as a superior court of record in and for The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 38, *amended*.

Composition
of court

54.—(1) The Unified Family Court shall be presided over by,

(a) a judge of the Ontario Court (General Division) appointed as senior judge for the Unified Family Court; or

(b) a judge of the Ontario Court (General Division),

who is authorized under subsection (3) to exercise the jurisdiction of a judge of the Ontario Court (Provincial Division).

(2) The senior judge for the Unified Family Court shall supervise and direct the sittings and the assignment of the judicial duties of the Unified Family Court. Duties of senior judge

(3) The Lieutenant Governor in Council may authorize a judge of the General Division to exercise the jurisdiction of a judge of the Provincial Division. Authority for Provincial Division matters

(4) A judge who may preside over the Unified Family Court shall exercise his or her jurisdiction as a judge of the General Division or a judge of the Provincial Division in the matters in which the General Division or the Provincial Division or a judge of one of them has jurisdiction under the statutory provisions set out in the Schedule to this Part. 1984, c. 11, s. 39; 1987, c. 1, s. 1, *amended*. Exercise of existing jurisdiction

55.—(1) Proceedings taken in a court in The Regional Municipality of Hamilton-Wentworth under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, shall be commenced and titled in the Unified Family Court and the jurisdiction of the court shall be exercised in the Unified Family Court. Proceedings in Unified Family Court

(2) A motion for interim relief under the *Divorce Act*, 1985 (Canada), the *Family Law Act*, 1986 or the *Children's Law Reform Act* in a proceeding in the General Division shall be heard in the Unified Family Court if it is required or permitted to be heard in The Regional Municipality of Hamilton-Wentworth by the rules of court or an order of the court. 1984, c. 11, s. 40 (1, 2) *amended*. Idem
S.C. 1986,
c. 4
1986, c. 4
R.S.O. 1980,
c. 68

(3) All proceedings commenced in or transferred to the Unified Family Court shall be heard and determined without a jury. 1984, c. 11, s. 40 (4), *amended*. No jury

56. Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the judge but respecting which jurisdiction may not be exercised in the Unified Family Other jurisdiction

Court, the court may, with leave of the judge, hear and determine the combined matters. 1984, c. 11, s. 41, *amended*.

Orders of
predecessor
court

57.—(1) The Unified Family Court may hear and determine an application under an Act to discharge, vary or suspend an order made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth.

Enforcement

(2) The Unified Family Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. 1984, c. 11, s. 42, *amended*.

Place where
proceedings
commenced

58.—(1) Subject to subsection (2), proceedings referred to in subsection 55 (1) may be commenced in the Unified Family Court where the applicant or the respondent resides in The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 44 (1), *amended*.

Idem,
custody or
access
R.S.O. 1980,
c. 68

(2) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in The Regional Municipality of Hamilton-Wentworth may be commenced in the Unified Family Court. 1984, c. 11, s. 44 (2), *amended*.

Transfer to
other court

(3) A judge who may preside over the Unified Family Court may, on motion, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (3).

Transfer
from other
court

(4) A judge of a court having jurisdiction in a proceeding under a statutory provision set out in the Schedule to this Part in an area other than The Regional Municipality of Hamilton-Wentworth may, on motion, order that the proceeding be transferred to the Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (4), *amended*.

Directions

(5) A judge making an order under subsection (3) or (4) may give such directions for the transfer as are considered just. 1984, c. 11, s. 44 (5).

Status of
orders

59. An order of a judge presiding over the Unified Family Court made in the exercise of his or her jurisdiction as a judge of the Ontario Court (General Division) is an order of the General Division for all purposes. 1984, c. 11, s. 45, *amended*.

60.—(1) Subject to subsections (2) and (3), a provision for an appeal from an order made under the statutory provisions set out in the Schedule to this Part applies to an order when made in the exercise of the jurisdiction by a judge presiding over the Unified Family Court. Appeals

(2) Where an order made by the Unified Family Court under a statutory provision set out in the Schedule to this Part is within the jurisdiction of the Ontario Court (General Division) outside The Regional Municipality of Hamilton-Wentworth, the order shall, for the purposes of an appeal, be deemed to have been made by a judge of the General Division. 1984, c. 11, s. 46 (1, 2), *amended*. Idem

(3) A provision for an appeal to the Ontario Court (General Division) or a judge of it from an order made by the Unified Family Court under the statutory provisions set out in the Schedule to this Part shall be deemed to provide for an appeal to the Divisional Court. *New*. Idem

(4) Where no provision is made for an appeal from an order of a judge presiding over the Unified Family Court, an appeal lies, Idem

(a) to the Court of Appeal from a final order, except an order referred to in clause (b);

(b) to the Divisional Court from a final order,

(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii); or

- (c) to the Divisional Court from an interlocutory order, with leave as provided in the rules of court. 1984, c. 11, s. 46 (4), *amended*.

Criminal
jurisdiction

61.—(1) A judge presiding over the Unified Family Court has all the powers of a judge sitting in the Ontario Court (Provincial Division) for the purposes of proceedings under the *Criminal Code* (Canada).

R.S.C. 1985,
c. C-46

Idem

(2) The Unified Family Court shall be deemed to be and shall sit as the Provincial Division,

R.S.O. 1980,
c. 400

- (a) for the purpose of dealing with young persons as defined in the *Provincial Offences Act*; and

1986, c. 4
R.S.O. 1980,
cc. 68, 293
1984, c. 55

- (b) for the purpose of prosecutions under the *Family Law Act, 1986*, the *Children's Law Reform Act*, the *Minors' Protection Act* and Part III (Child Protection) and Part VII (Adoption) of the *Child and Family Services Act, 1984*.

Idem

R.S.C. 1985,
c. Y-1

(3) The Unified Family Court is a youth court for the purpose of the *Young Offenders Act* (Canada). 1984, c. 11, s. 47, *amended*.

Conciliation
service

62. A conciliation service may be established, maintained and operated as part of the Unified Family Court. 1984, c. 11, s. 49.

Rules

63.—(1) The Lieutenant Governor in Council may make rules for the Unified Family Court in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) discovery and other forms of disclosure before hearing, including their scope and their admissibility and use in a proceeding;
- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;

- (g) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (h) costs of proceedings;
- (i) enforcement of orders and process;
- (j) payment into and out of court;
- (k) any matter that is referred to in an Act as provided for by rules of court.

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. Idem

(3) The rules of court made under Part IV do not apply to proceedings in the Unified Family Court. 1984, c. 11, s. 51, *amended*. Idem

SCHEDULE

Jurisdiction under the following statutory provisions:

Statutes	Provisions
1. Annulment of Marriages Act (Ontario) (Canada)	All
2. Change of Name Act, 1986	All
3. Child and Family Services Act, 1984	Parts III, VI and VII
4. Children's Law Reform Act	All, except sections 60 and 61
5. Divorce Act, 1985 (Canada)	All
6. Education Act	Sections 29 and 30
7. Family Law Act, 1986	All, except Part V
8. Marriage Act	Sections 6 and 9
9. Minors' Protection Act	Section 2
10. Reciprocal Enforcement of Maintenance Orders Act, 1982	All
11. Support and Custody Orders Enforcement Act, 1985	All
12. Young Offenders Act (Canada)	All

PART IV

RULES OF COURT

Civil Rules
Committee

64.—(1) The Civil Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) nine judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
- (d) the Attorney General or a person designated by the Attorney General;
- (e) one law officer of the Crown, who shall be appointed by the Attorney General;
- (f) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (g) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (h) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario; and
- (i) four barristers and solicitors, who shall be appointed by the Chief Justice of the Ontario Court.

Idem

(2) The Chief Justice of Ontario shall preside over the Civil Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside.

Tenure of
office

(3) Each of the members of the Civil Rules Committee appointed under clauses (1) (b), (c), (e), (f), (g), (h) and (i) shall hold office for a period of three years and is eligible for reappointment.

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (e), (f), (g), (h) or (i), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Civil Rules Committee constitutes a quorum. 1984, c. 11, s. 89, *amended*. Quorum

65.—(1) Subject to the approval of the Lieutenant Governor in Council, the Civil Rules Committee may make rules for the Court of Appeal and the Ontario Court (General Division) in relation to the practice and procedure of those courts in all civil proceedings, including family law proceedings. Civil Rules

(2) The Civil Rules Committee may make rules for the courts described in subsection (1), even though they alter or conform to the substantive law, in relation to, Idem

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, the binding effect of orders and representation of parties;
- (c) commencement of proceedings, representation of parties by solicitors and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and its effect and authorizing the Court of Appeal to determine in the first instance a special case arising in a proceeding commenced in the Ontario Court (General Division);
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including their scope and the admissibility and use of that discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) jurisdiction of masters, including the conferral on masters of any jurisdiction of the Ontario Court (General Division), including jurisdiction under an Act, but not including the trial of actions or jurisdiction conferred by an Act on a judge;

- (i) jurisdiction and duties of officers;
- (j) motions and applications, including the hearing of motions in the absence of the public and prohibiting a party from making motions without leave;
- (k) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (l) interpleader;
- (m) preparation for trial and offers to settle and their legal consequences;
- (n) the mode and conduct of trials;
- (o) the appointment by the court of independent experts, their remuneration and the admissibility and use of their reports;
- (p) the discount rate to be used in determining the amount of an award in respect of future pecuniary damages;
- (q) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (r) costs of proceedings, including security for costs and a solicitor's liability for or disentitlement to costs;
- (s) enforcement of orders and process or obligations under the rules;
- (t) the time for and procedure on appeals and stays pending appeal;
- (u) payment into and out of court;
- (v) any matter that is referred to in an Act as provided for by rules of court.

Idem

(3) Nothing in subsection (1) or (2) authorizes the making of rules that conflict with an Act, but rules may be made under subsections (1) and (2) supplementing the provisions of an Act in respect of practice and procedure. 1984, c. 11, s. 90, *amended*.

Family Rules
Committee

66.—(1) The Family Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the senior judge for the Unified Family Court;
- (c) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (d) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
- (e) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (i) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (j) two barristers and solicitors, who shall be appointed by the Chief Justice of the Ontario Court; and
- (k) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

(2) The Chief Justice of Ontario shall preside over the Family Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice shall preside. Idem

(3) Each of the members of the Family Rules Committee appointed under clauses (1) (c), (d), (e), (g), (h), (i), (j) and (k) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

Vacancies

(4) Where a vacancy occurs among the members appointed under clause (1) (c), (d), (e), (g), (h), (i), (j) or (k), a new member similarly qualified may be appointed for the remainder of the unexpired term.

Quorum

(5) A majority of the members of the Family Rules Committee constitutes a quorum. *New.*

Family Rules

67.—(1) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under statutory provisions set out in the Schedule to Part III (Unified Family Court), except proceedings under the *Young Offenders Act* (Canada).

R.S.C. 1985,
c. Y-1

Idem

(2) Subsections 65 (2) and (3) apply with necessary modifications to the Family Rules Committee making rules for the courts described in subsection (1).

May modify
civil rules

(3) The rules made by the Family Rules Committee may adopt, modify or exclude the rules made by the Civil Rules Committee.

Rules for
*Young
Offenders Act*

(4) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may prepare rules for the purpose of section 68 of the *Young Offenders Act* (Canada) for consideration by the Ontario Court (Provincial Division). *New.*

Criminal
Rules
Committee

68.—(1) The Criminal Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
- (d) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);

- (e) the Co-ordinator of Justices of the Peace;
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) three Crown attorneys, deputy Crown attorneys or assistant Crown attorneys, who shall be appointed by the Attorney General;
- (i) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (j) two barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (k) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario;
- (l) one barrister and solicitor, who shall be appointed by the Chief Justice of the Ontario Court; and
- (m) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

(2) The Chief Justice of Ontario shall preside over the Criminal Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside. Idem

(3) Each of the members of the Criminal Rules Committee appointed under clauses (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) and (m) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) or (m), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Criminal Rules Committee constitutes a quorum. *New.* Quorum

69.—(1) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may prepare Criminal Rules

R.S.C. 1985, rules for the purposes of section 482 of the *Criminal Code* (Canada) for consideration by the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division).
c. C-46

Provincial offences rules (2) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under the *Provincial Offences Act*. *New*.
R.S.O. 1980, c. 400

Idem (3) The Criminal Rules Committee may make rules under subsection (2),

- (a) regulating any matters relating to the practice and procedure of proceedings under the *Provincial Offences Act*;
- (b) prescribing forms;
- (c) regulating the duties of the employees of the courts;
- (d) prescribing and regulating the procedures under any Act that confers jurisdiction under the *Provincial Offences Act* on the Ontario Court (Provincial Division) or a judge or justice of the peace sitting in it;
- (e) prescribing any matter relating to proceedings under the *Provincial Offences Act* that is referred to in an Act as provided for by the rules of court. 1984, c. 11, s. 73 (3), *amended*.

3. Sections 92 and 93 of the said Act are repealed and the following substituted therefor:

Ontario
Courts
Management
Advisory
Committee

92.—(1) There shall be a committee, known as the Ontario Courts Management Advisory Committee, composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the Attorney General, the Deputy Attorney General, the Assistant Deputy Attorney General responsible for courts administration and the

Assistant Deputy Attorney General responsible for criminal law;

- (c) two barristers and solicitors appointed by the Benchers of the Law Society of Upper Canada in convocation and two barristers and solicitors appointed by the presidents of the county and district law associations; and
- (d) not more than four other persons, appointed by the Attorney General with the concurrence of,
 - (i) all of the judges mentioned in clause (a), and
 - (ii) all of the barristers and solicitors appointed under clause (c).

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee:

Who to
preside

1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.
2. The Attorney General or a person mentioned in clause (1) (b) and designated by the Attorney General.
3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.
4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest. *New.*

Function of
Committee

92a.—(1) For judicial purposes, Ontario is divided into the regions prescribed under subsection (2).

Regions for
judicial
purposes

(2) The Lieutenant Governor in Council may make regulations prescribing regions for the purpose of this Act. *New.*

Regulations

92b.—(1) There shall be a committee in each region, known as the Regional Courts Management Advisory Committee, composed of,

Regional
Courts
Management
Advisory
Committee

- (a) the regional senior judge of the Ontario Court (General Division) and the regional senior judge of the Ontario Court (Provincial Division);
- (b) the regional director of courts administration for the Ministry of the Attorney General and the regional director of Crown attorneys;
- (c) two barristers and solicitors appointed jointly by the presidents of the county and district law associations in the region; and
- (d) not more than two other persons, appointed by the Attorney General with the concurrence of,
 - (i) both of the judges mentioned in clause (a), and
 - (ii) both of the barristers and solicitors appointed under clause (c).

Who to
preside

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee:

- 1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.
- 2. An official mentioned in clause (1) (b) selected by the officials mentioned in that clause.
- 3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.
- 4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

Function of
Committee

(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures for the region to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest.

Frequency of
meetings

(4) The Committee shall meet at least four times each year.
New.

Powers of
chief or
regional
senior judge

93.—(1) The powers and duties of a judge who has authority to supervise and direct the sittings and the assignment of the judicial duties of his or her court include the following:

1. Determining the sittings of the court.
2. Assigning judges to the sittings.
3. Assigning cases to individual judges.
4. Determining the sitting schedules and places of sittings for individual judges.
5. Determining the total annual, monthly and weekly workload of individual judges.
6. Preparing trial lists and assigning courtrooms, to the extent necessary to control the determination of who is assigned to hear particular cases. 1984, c. 11, s. 93, *amended*.

(2) Subsection (1) applies with necessary modifications in respect of supervising and directing the sittings and assigning the judicial duties of masters. *New.*

Powers in respect of masters

4. Section 94 of the said Act is amended by adding thereto the following subsections:

(2) A power or duty given to a registrar, sheriff, court clerk, assessment officer or official examiner under an Act, regulation or rule of court may be exercised or performed by a person or class of persons to whom the power or duty has been assigned by the Deputy Attorney General or a person designated by the Deputy Attorney General.

Exercise of powers of registrar, sheriff, etc.

(3) Subsection (2) applies in respect of an Act, regulation or rule of court made under the authority of the Legislature or of the Parliament of Canada.

Idem

5. The said Act is amended by adding thereto the following section:

95a. Documents and other material that are no longer required in a court office shall be disposed of in accordance with the directions of the Deputy Attorney General, subject to the approval of,

Destruction of documents

- (a) in the Court of Appeal, the Chief Justice of Ontario;
- (b) in the Ontario Court (General Division), the Chief Justice of the Ontario Court;

(c) in the Ontario Court (Provincial Division), the Chief Judge of the Provincial Division;

(d) in the Unified Family Court, the Senior Judge for the Unified Family Court. 1984, c. 11, s. 101 (4), *amended*.

6. Section 98 of the said Act is repealed and the following substituted therefor:

Liability of judges

98. Every judge of a court in Ontario and every master has the same immunity from liability as a judge of the Ontario Court (General Division).

7. Section 99 of the said Act is repealed and the following substituted therefor:

Compensation for statutory duties

99. Every judge who was a judge of the Supreme Court or of the District Court before this section comes into force shall be paid out of the Consolidated Revenue Fund the annual sum of \$3,000, payable quarterly, as compensation for the services the judge is called on to render by any Act of the Legislature in addition to his or her ordinary duties.

8. Subsection 100 (1) of the said Act is amended by striking out "Supreme Court or the District Court" in the first and second lines and inserting in lieu thereof "Court of Appeal or the Ontario Court (General Division)".

9. The said Act is further amended by adding thereto the following sections:

Judges' gowns

100a. The Lieutenant Governor in Council may make regulations respecting the form of the gown to be worn in court by all judges appointed after this section comes into force.

How certain judges to be addressed

100b.—(1) Every judge of the Ontario Court (General Division) and the Unified Family Court may be addressed as "Your Honour" or as "(*Mr. or Mme.*) Justice (*naming the judge*)".

Idem

(2) A judge appointed to the High Court of Justice before this section comes into force may elect to be addressed according to the practice in existence before this section comes into force.

10. Section 101 of the said Act is repealed and the following substituted therefor:

101.—(1) Every person who was a master of the Supreme Court before this section comes into force is a master of the Ontario Court (General Division). *New.*

Masters

(2) Every master has the jurisdiction conferred by the rules of court in proceedings in the General Division. 1984, c. 11, s. 20 (3).

Jurisdiction

(3) Sections 42 to 49 apply with necessary modifications to masters in the same manner as to provincial judges. 1984, c. 11, s. 20 (11), *amended.*

Application of ss. 42-49

(4) The right of a master to continue in office under subsection 43 (3) is subject to the approval of the Chief Justice of the Ontario Court and not of the Chief Judge of the Provincial Division. *New.*

Idem

101a.—(1) Money paid into the Ontario Court (General Division) shall be paid to the Accountant of the Ontario Court and such money and securities in which the money is invested are vested in the Accountant.

Money vested in Accountant

(2) Mortgages and other securities taken under an order of the Ontario Court (General Division) and instruments taken as security in respect of a proceeding in the Ontario Court (General Division) shall be taken in the name of the Accountant and shall be deposited in his or her office, except where an order provides otherwise.

Security held by Accountant

(3) The Accountant has no duty or obligation in respect of the instruments deposited under subsection (2) except as custodian of the instruments, unless an order of the court provides otherwise.

Idem

(4) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Accountant. 1984, c. 11, s. 22, *amended.*

Audit by Provincial Auditor

101b.—(1) The finance committee is continued and shall be composed of three persons appointed by the Lieutenant Governor in Council.

Finance committee

(2) The finance committee has control and management of the money in the Ontario Court (General Division), the investment of the money and the securities in which it is invested.

Management of court funds

(3) Money that is available for investment shall be invested in investments in which the Treasurer of Ontario may invest

Investment of court funds

R.S.O. 1980, c. 161 public money under section 3 of the *Financial Administration Act*.

Employment of trust company (4) The finance committee may employ a trust company to make the investments or act as custodian of the securities purchased as investments.

Interest (5) The finance committee may provide for the payment of interest on money paid into the General Division and may fix the rate of interest so paid.

Reserve funds (6) The finance committee may establish such reserve funds as it considers necessary. 1984, c. 11, s. 23, *amended*.

11. Subsection 102 (3) of the said Act is amended by striking out “Rules of Civil Procedure” in the third line and inserting in lieu thereof “rules of court”.

12. Section 103 of the said Act is repealed and the following substituted therefor:

Assessment officers **103.—**(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint assessment officers.

Idem (2) Every master is an assessment officer.

Jurisdiction (3) Every assessment officer has jurisdiction to assess costs in a proceeding in any court.

Appeal from assessment of costs before tribunal (4) Where costs of a proceeding before a tribunal other than a court are to be assessed by an assessment officer,

(a) the rules of court governing the procedure on an assessment of costs apply with necessary modifications; and

(b) an appeal lies to the Ontario Court (General Division) from a certificate of assessment of the costs if an objection was served in respect of the issue appealed in accordance with the rules of court.

13.—(1) Subsection 104 (1) of the said Act is repealed.

(2) Subsection 104 (2) of the said Act is amended by striking out “additional” in the second line.

14.—(1) Subsection 108 (2) of the said Act is amended by striking out “and” where it occurs the second time in the third

line and by inserting after “hearing)” in the fourth line “and 153a (where procedures not provided)”.

(2) Subsection 108 (3) of the said Act, as amended by the Statutes of Ontario, 1989, chapter 24, section 4, is repealed and the following substituted therefor:

(3) Sections 122 (constitutional questions), 135, 136 (language of proceedings), 142 (judge sitting on appeal), 146 (prohibition against photography at court hearings), 152a (arrest and committal warrants enforceable by police) and 153a (where procedures not provided) also apply to proceedings under the *Provincial Offences Act* and, for the purpose, a reference in one of those sections to a judge includes a justice of the peace presiding in the Ontario Court (Provincial Division).

Application
to provincial
offences

R.S.O. 1980,
c. 400

15. Subsection 109 (3) of the said Act is repealed and the following substituted therefor:

(3) Only the Court of Appeal, the Unified Family Court and the Ontario Court (General Division), may grant equitable relief, unless otherwise provided.

Jurisdiction
for equitable
relief

16. Section 110 of the said Act is amended by striking out “Supreme Court, the District Court and the Unified Family Court” in the first and second lines and inserting in lieu thereof “Court of Appeal, the Unified Family Court and the Ontario Court (General Division)”.

17. Subsection 114 (1) of the said Act is amended by striking out “Supreme Court, the District Court or the Unified Family Court” in the first and second lines and inserting in lieu thereof “Unified Family Court or the Ontario Court (General Division)”.

18.—(1) Subsection 118 (1) is repealed and the following substituted therefor:

(1) In this section, “health practitioner” means a person licensed to practise medicine or dentistry in Ontario or any other jurisdiction, a psychologist registered under the *Psychologists Registration Act* or a person certified or registered as a psychologist by another jurisdiction.

“health
practitioner”
defined
R.S.O. 1980,
c. 404

(2) Subsection 118 (2) of the said Act is amended by striking out “medical” in the fourth line and inserting in lieu thereof “health”.

(3) Subsection 118 (5) of the said Act is amended by striking out “medical” in the second line and inserting in lieu thereof “health”.

19. Subsections 120 (2) and (3) of the said Act are repealed and the following substituted therefor:

Transfer
from Small
Claims Court

(2) A proceeding in the Small Claims Court shall not be transferred under clause (1) (d) to the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Idem

(2a) A proceeding in the Small Claims Court shall not be required under subclause (1) (e) (ii) to be asserted by way of counterclaim in a proceeding in the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Motions

(3) The motion shall be made to a judge of the Ontario Court (General Division).

20.—(1) Subsection 121 (1) of the said Act is amended by striking out “a Supreme Court or District Court action” in the first line and inserting in lieu thereof “an action in the Ontario Court (General Division) that is not in the Small Claims Court”.

(2) Subsection 121 (2) of the said Act is amended by striking out “Actions in which a claim is made for any of the following kinds of relief shall be heard without a jury:” in the first and second lines and inserting in lieu thereof “The issues of fact and the assessment of damages in an action shall be tried without a jury in respect of a claim for any of the following kinds of relief:”.

(3) Paragraph 3 of the said subsection 121 (2) is amended by striking out “*Family Law Reform Act*” in the first and second lines and inserting in lieu thereof “*Family Law Act, 1986*”.

21. Subsection 122 (2) of the said Act is amended by striking out “Rules of Civil Procedure” in the second line and inserting in lieu thereof “rules of court”.

22. Subsection 124 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Mutual debts may be set off against each other even if they are of a different nature.

23. Clause 129 (b) of the said Act is amended by striking out “*Family Law Reform Act*” in the first line and inserting in lieu thereof “*Family Law Act, 1986*”.

24.—(1) Clause 133 (1) (a) of the said Act is amended by striking out “the” in the first line and inserting in lieu thereof “a”.

(2) Clause 133 (1) (b) of the said Act is amended by striking out “local judge or”.

25.—(1) Subclause 136 (1) (a) (ii) of the said Act is repealed and the following substituted therefor:

(ii) the area that comprised the County of Welland as it existed on the 31st day of December, 1969,

(iia) The Regional Municipality of Ottawa-Carleton,

(iib) The Municipality of Metropolitan Toronto.

(2) Subsection 136 (6) of the said Act is amended by striking out “Provincial Court (Family Division) or the Provincial Court (Civil Division)” in the second and third lines and inserting in lieu thereof “Ontario Court (Provincial Division) or the Small Claims Court”.

(3) Subsection 136 (7) of the said Act is amended by striking out “in the Provincial Offences Court where it is” in the second and third lines and inserting in lieu thereof “under the *Provincial Offences Act* in”.

26. Subsection 137 (2) of the said Act is amended by striking out “the Registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “a person designated by the Deputy Attorney General”.

27.—(1) Subsection 150 (1) of the said Act is amended by striking out “Supreme Court” in the first line and in the last line and inserting in lieu thereof in each instance “Ontario Court (General Division)”.

(2) Subsection 150 (3) of the said Act is amended by striking out “Supreme Court” in the fourth line and inserting in lieu thereof “Ontario Court (General Division)”.

28. The said Act is further amended by adding thereto the following sections:

Civil orders directed to sheriffs

150a.—(1) Unless an Act provides otherwise, orders of a court arising out of a civil proceeding and enforceable in Ontario shall be directed to a sheriff for enforcement.

Police to assist sheriff

(2) A sheriff who believes that the execution of an order may give rise to a breach of the peace may require a police officer to accompany the sheriff and assist in the execution of the order.

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Where procedures not provided

153a. Jurisdiction conferred on a court, a judge or a justice of the peace shall, in the absence of express provision for procedures for its exercise in any Act, regulation or rule, be exercised in any manner consistent with the due administration of justice. 1984, c. 11, s. 62, *amended*.

29. Sections 157 and 158 of the said Act are repealed and the following substituted therefor:

Continuation of proceedings in former courts

157. A proceeding pending in a court set out in column 1 of the Table when this section comes into force is continued in the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	High Court of Justice	Ontario Court (General Division)
2.	District Court	Ontario Court (General Division)
3.	surrogate court	Ontario Court (General Division)
4.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
5.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
6.	Provincial Offences Court	Ontario Court (Provincial Division)
7.	Provincial Court (Civil Division)	Small Claims Court

Former Chief Judge, etc.

158.—(1) A provincial judge who was a Chief Judge, Associate Chief Judge or senior judge of the Provincial Court (Criminal Division), the Provincial Court (Family Division) or the Provincial Court (Civil Division) immediately before this section comes into force shall continue to hold the office of provincial judge, is entitled to retain the title of Chief Judge, Associate Chief Judge or senior judge, as the case may be, and is entitled to an annual salary equal to the greater of,

- (a) the current annual salary of a provincial judge; or
- (b) the annual salary the judge received immediately before this section comes into force.

(2) A master who was the Senior Master immediately before this section comes into force shall continue to hold the office of master, is entitled to retain the title of Senior Master and is entitled to an annual salary equal to the greater of,

Former
Senior
Master

- (a) the current annual salary of a master; or
- (b) the annual salary the master received immediately before this section comes into force.

158a.—(1) A document filed in court that refers to a court set out in column 1 of the Table to section 160 is not by that reason invalid and shall be deemed to refer to the court set out opposite to it in column 2.

Documents
filed

(2) Subsection (1) is repealed one year after this section comes into force.

Subsection
repealed

30. Section 159 of the said Act is repealed and the following substituted therefor:

159. Where, by an Act or regulation, jurisdiction is conferred on a particular court set out in column 1 of the Table, the jurisdiction shall be deemed to be conferred on the corresponding court set out in column 2 sitting in the county or district of the court named.

Reference to
territorial
jurisdiction

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	county or district court	Ontario Court (General Division)
2.	surrogate court	Ontario Court (General Division)
3.	provincial court (family division)	Ontario Court (Provincial Division)
4.	provincial offences court	Ontario Court (Provincial Division)
5.	small claims court	Small Claims Court

31. Section 160 of the said Act is repealed and the following substituted therefor:

References to
courts

160. A reference in an Act, rule or regulation to a court set out in column 1 of the Table is deemed to be a reference to the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Supreme Court	Ontario Court (General Division)
2.	High Court of Justice	Ontario Court (General Division)
3.	county or district court	Ontario Court (General Division)
4.	District Court	Ontario Court (General Division)
5.	surrogate court	Ontario Court (General Division)
6.	small claims court	Small Claims Court
7.	Provincial Court (Civil Division)	Small Claims Court
8.	provincial court (criminal division)	Ontario Court (Provincial Division)
9.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
10.	provincial court (family division)	Ontario Court (Provincial Division)
11.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
12.	provincial offences court	Ontario Court (Provincial Division)
13.	Provincial Offences Court	Ontario Court (Provincial Division)

Changes in
terminology

160a.—(1) A reference in any Act, rule or regulation, or order or other court process, to a term set out in column 1 of the Table, or any form thereof, is deemed to refer to the corresponding term set out opposite thereto in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Accountant of the Supreme Court	Accountant of the Ontario Court
2.	administrator <i>ad litem</i>	litigation administrator
3.	certificate of <i>lis pendens</i>	certificate of pending litigation
4.	conduct money	attendance money
5.	guardian <i>ad litem</i>	litigation guardian
6.	judicial district	county or district

7.	local judge of the High Court	judge of the Ontario Court (General Division)
8.	local judge of the Supreme Court	judge of the Ontario Court (General Division)
9.	next friend	litigation guardian
10.	originating motion	application
11.	originating notice	notice of application
12.	praecipe	requisition
13.	provisional judicial district	territorial district
14.	a registrar of a surrogate court	the local registrar of the Ontario Court (General Division)
15.	Rules of Civil Procedure	rules of court
16.	Rules Committee	applicable rules committee
17.	Rules Committee of the Supreme and District Courts	applicable rules committee
18.	Rules of Practice and Procedure of the Supreme Court of Ontario made by the Rules Committee	rules of court
19.	special examiner	official examiner
20.	Surrogate Clerk for Ontario	Estate Registrar for Ontario
21.	taxation of costs	assessment of costs
22.	taxing officer	assessment officer
23.	writ of <i>feri facias</i>	writ of seizure and sale
24.	writ of summons	statement of claim or notice of action

(2) A reference in any Act, rule or regulation to the surrogate registrar for a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district. Idem, surrogate registrar for a county

(3) A reference in any Act, rule or regulation to the clerk of a county or district court of a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district. Idem, clerk of a county

(4) A reference in any Act, rule or regulation to an order, direction or decision filed with the Registrar of the Supreme Court is deemed to be a reference to an order, direction or decision filed with the Ontario Court (General Division). Idem, order filed with the Registrar

160b. Where an Act, rule or regulation provides that a document is to be filed with, certified to, forwarded to or transmitted to the Supreme Court or the Registrar of the Supreme Court for the purpose of an appeal to the Divisional Documents filed for appeal to Divisional Court

Court, that document shall be filed with, certified to, forwarded to or transmitted to, as the case may be, the Divisional Court.

References to
counties for
judicial
purposes

160c.—(1) A reference in this Act or any other Act, rule or regulation to a county or district for judicial purposes is deemed to be a reference to the corresponding area that, for municipal or territorial purposes, comprises the county, district, union of counties or regional, district or metropolitan municipality.

Separated
municipalities

(2) For the purpose of subsection (1), every city, town and other municipality is united to and forms part of the county in which it is situate.

Exceptions

(3) Subsection (1) is subject to the following:

1. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Haldimand-Norfolk, deemed to be a reference to the following areas:
 - i. All the area of the County of Haldimand as it existed on the 31st day of March, 1974.
 - ii. All the area of the County of Norfolk as it existed on the 31st day of March, 1974.
2. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Niagara, deemed to be a reference to the following areas:
 - i. All the area of the County of Lincoln as it existed on the 31st day of December, 1969.
 - ii. All the area of the County of Welland as it existed on the 31st day of December, 1969.
3. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Sudbury and the Territorial District of Sudbury, deemed to be a reference to all the area in The Regional Municipality of Sudbury and in the Territorial District of Sudbury.
4. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of an area described below, deemed to be a reference to all the area in the areas described below:

- i. All the area in the County of Victoria.
- ii. All the area in the County of Haliburton.
- iii. All the area in any part of the townships of Sherborne, McClintock, Livingstone, Lawrence and Nightingale located in Algonquin Park, so long as the part remains part of Algonquin Park.

32. Section 212 of the said Act is repealed.

33. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

34. The short title of this Act is the *Courts of Justice Amendment Act, 1989*. Short title

Bill 3

An Act to amend certain Statutes of Ontario Consequent upon Amendments to the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General



1st Reading May 1st, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill repeals the *Sheriffs Act* and makes amendments to 52 other statutes. The amendments are required as a result of the amendments set out in the *Courts of Justice Amendment Act, 1989* changing the structure and administration of the courts.

Bill 3

1989

An Act to amend certain Statutes of Ontario Consequent upon Amendments to the Courts of Justice Act, 1984

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 23 (8) of the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$200 or less” in the third line and inserting in lieu thereof “within the monetary jurisdiction of the Small Claims Court”.

(2) Subsection 29 (3) of the said Act is amended by striking out “the judge of the surrogate court of the Judicial District of York” in the fourth and fifth lines and inserting in lieu thereof “a judge of the Ontario Court (General Division) sitting in The Municipality of Metropolitan Toronto”.

2. Subsection 63 (1) of the *Child and Family Services Act*, 1984, being chapter 55, is repealed and the following substituted therefor:

(1) The Minister may appoint a judge of the Ontario Court of Justice or the Unified Family Court to investigate a matter relating to a child in a society’s care or the proper administration of this Part, and a judge who is appointed shall conduct the investigation and make a written report to the Minister.

Investigation
by judge

3.—(1) Section 3 of the *Children’s Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District” in the second and third lines and inserting in lieu thereof “The Regional Municipality”.

(2) Section 73 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

Order made
under
R.S.O. 1980,
c. 292

73.—(1) An application to vary an order made by a surrogate court under the *Minors Act* shall be made to the Ontario Court (General Division).

Idem
1984, c. 11

(2) Section 160 of the *Courts of Justice Act, 1984* does not apply to subsection (1) to deem the reference to a surrogate court to be a reference to the Ontario Court (General Division).

4.—(1) Section 51 of the *Construction Lien Act, 1983*, being chapter 6, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(2) Subsection 52 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(3) Subsections 52 (2) and (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, are repealed and the following substituted therefor:

What matters
not to be
dealt with by
master

- (2) A master shall not hear or dispose of,
- (a) a motion for the reference of an action to a master for trial;
 - (b) an application; or
 - (c) a motion in respect of an appeal.

Further
powers of
master

(3) In addition to the jurisdiction under subsection (1), a master to whom a reference has been directed has all the jurisdiction, powers and authority of the court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court.

(4) Section 53 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Court to
dispose
completely of
action

53. The court, whether the action is being tried by a judge or by a master on a reference,

- (a) shall try the action, including any set-off, cross-claim, counterclaim and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and

liabilities of the persons appearing before it or upon whom notice of trial has been served; and

- (b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

(5) Section 54 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

54. A judge or master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of appointing the time and place for the trial of the action or reference, or for holding a settlement meeting.

Where
exclusive
jurisdiction
not acquired

(6) Subsection 60 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is further amended by striking out “or” at the end of clause (a) and by striking out clause (b).

(7) Subsection 60 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is further amended by striking out “or” at the end of clause (a) and by striking out clause (b).

(8) Subsection 60 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(3) Where under subsection (1) the action has been referred to a master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge of the court that directed the reference to set aside the judgment directing the reference.

Application
to set aside
order of
reference

(9) Clause 64 (1) (b) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

- (b) in a report in the prescribed form, where the trial is conducted by a master on a reference.

(10) Subsection 64 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

When report
deemed
confirmed

(3) The report of a master shall be deemed to be confirmed at the expiration of the fifteen-day period next following the date that the notice of filing was given, unless notice of a motion to oppose confirmation of the report is served within that time.

5.—(1) Subsection 48 (3) of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the fifth and sixth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

(2) Section 49 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the thirteenth and fourteenth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

6. Subsection 6 (1) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Chief Judge of the County and District Courts” in the second line and inserting in lieu thereof “a judge of the Ontario Court (General Division) designated by the Chief Judge of the Ontario Court”.

7.—(1) Subsection 78 (2) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 80 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

8.—(1) Clause 3 (2) (a) of the *County of Haliburton Act*, 1982, being chapter 57, is repealed.

(2) Subsection 4 (4) of the said Act is repealed.

9.—(1) Section 3 of the *Creditors' Relief Act*, being chapter 103 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 1, section 1, is amended by adding thereto the following subsection:

(2) Subsection (1) does not affect the priority of a creditor by execution or garnishment issued by the Small Claims Court. Exception

(2) Subsection 22 (2) of the said Act is repealed and the following substituted therefor:

(2) Such costs shall be ascertained in accordance with the tariffs of costs under the rules of court applicable to, Scale of costs

- (a) the Small Claims Court, if the claim is within the monetary jurisdiction of that court; or
- (b) the Ontario Court (General Division), in any other case.

10.—(1) Subsection 3 (1) of the *Crown Attorneys Act*, being chapter 107 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District of York” in the third and fourth lines and in the sixth line and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(2) Subsection 3 (2) of the said Act is amended by striking out “the Judicial District of York” wherever it occurs and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(3) Subclause 12 (b) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 170, is repealed.

11.—(1) Subsection 4 (3) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 112 (1) of the said Act is amended by striking out “district court within the District Area or a judge of the county court or district court of a county or district adjoining the District Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

12.—(1) Section 69 of the *Election Act, 1984*, being chapter 54, is repealed and the following substituted therefor:

69. In this section and in sections 70 to 80, unless otherwise stated, “judge” means a judge of the Ontario Court (Provincial Division). Definition

(2) Subsection 79 (3) of the said Act is amended by striking out “Registrar of the Supreme Court” in the fifth and sixth

lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate” and by striking out “Registrar” in the eighth line and inserting in lieu thereof “local registrar”.

(3) Subsections 79 (4) and (5) of the said Act are amended by striking out “Registrar” wherever it occurs and inserting in lieu thereof in each instance “local registrar”.

(4) Subsection 85 (5) of the said Act is amended by striking out “Registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate” and by striking out “Registrar” in the fourth line and inserting in lieu thereof “local registrar”.

(5) Subsections 98 (5) and (6) of the said Act are repealed and the following substituted therefor:

Local
registrar to
notify
C.E.O.

(5) When an action is commenced by a person other than the Chief Election Officer, the local registrar of the Ontario Court (General Division) shall notify the Chief Election Officer by registered mail.

(6) Subsection 103 (3) of the said Act is amended by striking out “Registrar of the Supreme Court” in the second line and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(7) Subsection 105 (1) of the said Act is amended by striking out “Registrar of the Supreme Court” in the sixth and seventh lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(8) Subsection 106 (7) of the said Act is amended by striking out “Registrar of the Supreme Court” in the first line and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(9) Subsection 107 (2) of the said Act is amended by striking out “Registrar” in the second line and inserting in lieu thereof “local registrar”.

(10) Subsection 109 (2) of the said Act is repealed and the following substituted therefor:

Appeal to be
heard
speedily

(2) The appeal shall be heard as speedily as practicable.

13. Section 49 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is amended by striking out “surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “court that granted it or under the seal of the Ontario Court (General Division)”.

14. Subsections 24 (2) and (3) of the *Fraudulent Debtors Arrest Act*, being chapter 177 of the Revised Statutes of Ontario, 1980, are repealed.

15.—(1) Subsection 14 (6) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the third and fourth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 14 (10) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

16. Subsection 14 (2) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or with the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

17.—(1) Clause 20 (3) (a) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the court” in the fifth, sixth and seventh lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 21 (3) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(3) Subsection 21 (6) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the court, as the case may be” in the first, second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

18. Subsection 19 (2) of the *Industrial Standards Act*, being chapter 216 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the fifth line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

19. Section 61 of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Master of the Supreme Court” in the fourth line and inserting in lieu thereof “a referee in a proceeding in the Ontario Court (General Division)”.

20.—(1) Clause 27 (i) of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (i) where the time limited for a proceeding or for the doing of any thing in a court office, a land registry office or a sheriff's office expires or falls on a day that is prescribed as a holiday for that office, the time so limited extends to and the thing may be done on the day next following that is not a holiday.

(2) Paragraphs 9 and 35 of section 30 of the said Act are repealed.

21.—(1) Subsection 5 (3) of the *Juries Act*, being chapter 226 of the Revised Statutes of Ontario, 1980, is amended by adding “and” at the end of clause (a) and by striking out clauses (b) and (c) and inserting in lieu thereof:

- (b) to the local registrar of the Ontario Court (General Division), a copy of the determination for the number of jurors under clause (1) (a).

(2) Subsection 12 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed and the following substituted therefor:

Issuance of
precepts

(1) A judge of the Ontario Court (General Division) may issue precepts in the form prescribed by the regulations to the sheriff for the return of such number of jurors as the sheriff has determined as the number to be drafted and returned or such greater or lesser number as in his or her opinion is required.

(3) Subsection 12 (1a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed.

(4) Subsection 12 (2) of the said Act is repealed.

(5) Subsection 39 (2) of the said Act is amended by striking out “Registrar or the local registrar of the Supreme Court, as the case may be” in the third and fourth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

22.—(1) Subsection 6 (1) of the *Justices of the Peace Act*, being chapter 227 of the Revised Statutes of Ontario, 1980, is amended by striking out “chief judge of the provincial courts (criminal division) or the chief judge of the provincial courts (family division), or by a provincial judge designated by either of them” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division) or a provincial judge designated by the Chief Judge”.

(2) Subsection 6 (2) of the said Act is amended by striking out “chief judge of the provincial courts (criminal division)” in the first and second lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(3) Subsection 6 (3) of the said Act is repealed.

(4) Subsection 6 (4) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 8, section 1, is amended by striking out “chief judge of the provincial courts (criminal division)” in the fourth line and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(5) Subsection 6 (5) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 8, section 1, is repealed.

(6) Subsection 6 (6) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 8, section 1, is amended by striking out “subsections (4) and (5)” in the first and second lines and inserting in lieu thereof “subsection (4)”.

(7) Subsection 7a (2) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 8, section 3, is amended by striking out “chief judge of the provincial courts (criminal division) or the chief judge of the provincial courts (family division)” in the third, fourth and fifth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(8) Subsection 8 (1) of the said Act is repealed and the following substituted therefor:

(1) There shall be a Justices of the Peace Review Council composed of,

Justices of
the Peace
Review
Council

- (a) the Chief Judge of the Ontario Court (Provincial Division);
- (b) the regional senior judge of the Ontario Court (Provincial Division) concerned in the matter being considered by the Council; and
- (c) a provincial judge designated by the Chief Judge of the Ontario Court (Provincial Division).

(9) Subsection 8 (4) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 8, section 4, is further amended by striking out “chief judge of the provincial courts (criminal division) or the chief judge of the provincial courts (family division)” in the second, third and fourth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(10) Section 8 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 8, section 4, is further amended by adding thereto the following subsection:

Transitional

(8) An investigation commenced by the Justices of the Peace Review Council before this subsection comes into force shall be continued by the Justices of the Peace Review Council as it was constituted before this subsection comes into force.

23. Subsection 12 (2) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or with the Local Registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

24.—(1) Sections 69 and 70 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 74 of the said Act is repealed and the following substituted therefor:

Scale of costs

74. The costs of the proceeding before the judge shall be on the Small Claims Court scale if the amount claimed by the landlord does not exceed the monetary jurisdiction of the Small Claims Court.

25. Section 49 of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court” in the fourth line and

inserting in lieu thereof “local registrar of the Ontario Court (General Division) at Toronto”.

26.—(1) Subsection 17 (3) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) The Clerk of the Assembly shall, on receiving a disclaimer, forthwith send a copy of it to the local registrar of the Ontario Court (General Division) for the county or district in which is situate the electoral district or any part of the electoral district for which the member so disclaiming was elected.

Transmission
of copy of
disclaimer

(2) Subsection 47 (2) of the said Act is amended by striking out “the Judicial District of York” in the second and third lines and inserting in lieu thereof “The Municipality of Metropolitan Toronto”.

27. Subsection 13 (4) of the *Libel and Slander Act*, being chapter 237 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(4) An order made under this section is final and is not subject to appeal.

Order of
judge
respecting
security final

28.—(1) Subsection 10 (1) of the *Master and Servant Act*, being chapter 257 of the Revised Statutes of Ontario, 1980, is amended by striking out “small claims court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the small claims court held in the division in which the party or parties complained against or one of them carried on business” in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof “Ontario Court (General Division)”.

(2) Section 11 of the said Act is repealed.

29. Subsection 102 (1) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out “county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate” in the second, third, fourth, fifth and sixth lines and inserting in lieu thereof “Ontario Court (General Division)”.

30.—(1) Subsection 87 (1) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section

9, is amended by striking out “District Court of” in the ninth line and inserting in lieu thereof “Ontario Court (Provincial Division) sitting in”.

(2) Subsection 87 (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “local registrar of the District Court” in the third line and inserting in lieu thereof “clerk of the Ontario Court (Provincial Division)”.

(3) Subsection 88c (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court” in the fourth line and inserting in lieu thereof “Ontario Court (Provincial Division)”.

(4) Subsection 88c (2) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court” in the fourth line and inserting in lieu thereof “Ontario Court (Provincial Division)”.

(5) Section 88j of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by,

- (a) striking out “Divisional Court” wherever it occurs and inserting in lieu thereof in each instance “Ontario Court (General Division)”;
- (b) striking out “Registrar of the Supreme Court” in the first and second lines of subsection (3) and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”;
- (c) striking out “Registrar” wherever it occurs in subsections (5) and (6) and inserting in lieu thereof in each instance “local registrar”.

31. Subsection 252 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “county court of the Judicial District of York, or a judge of the county court of a judicial district adjoining the Judicial District of York” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

32. Subsection 121 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out “county court within the County or a judge of the county court of a county or judicial district adjoining the County” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

33.—(1) Subsection 11 (9) of the *Provincial Land Tax Act*, being chapter 399 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out “Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court” in the fourth, fifth and sixth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 11 (11) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

34.—(1) Clause 1 (1) (j) of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is amended by striking out “court” in the first line and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(2) Subsection 31 (2) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the third and fourth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(3) Subsection 31 (3) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the fourth and fifth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(4) The said Act is amended by adding thereto the following section:

90a.—(1) Except as otherwise provided by an Act, every person who commits contempt in the face of a justice of the peace presiding over the Ontario Court (Provincial Division) in a proceeding under this Act is on conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Contempt

(2) Before a proceeding is taken for contempt under subsection (1), the justice of the peace shall inform the offender of the conduct complained of and the nature of the contempt and inform him or her of the right to show cause why he or she should not be punished.

Statement to
offender

(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he or she should not be punished.

Show cause

Adjournment
for adjudi-
cation

(4) Except where, in the opinion of the justice of the peace, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the justice of the peace shall adjourn the contempt proceeding to another day.

Adjudication
by judge

(5) A contempt proceeding that is adjourned to another day under subsection (4) shall be heard and determined by the court presided over by a provincial judge.

Arrest for
immediate
adjudication

(6) Where the justice of the peace proceeds to deal with a contempt immediately and without adjournment under subsection (4), the justice of the peace may order the offender arrested and detained in the courtroom for the purpose of the hearing and determination.

Barring agent
in contempt

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he or she be barred from acting as agent in the proceeding in addition to any other punishment to which he or she is liable.

Appeals

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in a proceeding commenced by certificate under Part I of this Act.

Enforcement

(9) This Act applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section.

(5) Section 91m of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 80, section 1, is amended by striking out “provincial court (criminal division)” in the sixth line and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge”.

(6) Clause 99 (2) (a) of the said Act is amended by striking out “provincial court (criminal division) of” in the second and third lines and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge sitting in”.

(7) Subsection 118 (1) of the said Act is amended by striking out “provincial court (criminal division) of” in the fifth line and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge sitting in”.

(8) Subsection 122 (1) of the said Act is amended by striking out “provincial court (criminal division)” in the second line

and inserting in lieu thereof "Ontario Court (Provincial Division) in an appeal under section 118".

(9) Section 123 of the said Act is repealed.

(10) Subsection 142 (1) of the said Act is amended by striking out "in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated" in the thirteenth, fourteenth and fifteenth lines.

35.—(1) Subsections 5 (3) and (4) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 133 (1) of the said Act is amended by striking out "county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

36.—(1) Subsections 5 (3), (4) and (6) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 116 (1) of the said Act is amended by striking out "county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

37.—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 126 (1) of the said Act is amended by striking out "county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

38.—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 138 (1) of the said Act is amended by striking out "county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

39.—(1) Subsections 4 (3) and (4) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 165 (1) of the said Act is amended by striking out “either of the county courts within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “the Ontario Court (General Division)”.

40.—(1) Subsection 2 (3) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 168 (1) of the said Act is amended by striking out “county court of the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

41.—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 121 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

42.—(1) Subsection 4 (3) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 108 (1) of the said Act is amended by striking out “district court within the Regional Area or a judge of the district court of a district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

43.—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 156 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

44.—(1) Subsection 4 (3) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 157 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

45.—(1) Subsection 23 (2) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 25 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

46. The *Sheriffs Act*, being chapter 470 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 11, section 212, is repealed.

47. Subsection 35 (1) of the *Statute Labour Act*, being chapter 482 of the Revised Statutes of Ontario, 1980, is amended by striking out “Provisional Judicial” in the fifteenth line and inserting in lieu thereof “Territorial”.

48.—(1) Sections 2, 4 and 5 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Sections 6 and 7 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, are repealed.

(3) Sections 8 and 9 of the said Act are repealed.

(4) Section 11 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 10, section 1, is repealed.

(5) Section 12 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(6) Sections 14 and 15 of the said Act are repealed.

(7) Section 17 of the said Act is repealed and the following substituted therefor:

Depository
for the wills
of living
persons

17. The office of the local registrar of the Ontario Court (General Division) is a depository for all wills of living persons given there for safekeeping, and the local registrar shall receive and keep those wills under such regulations as are prescribed by the rules of court.

(8) Section 18 of the said Act is amended by striking out “regulations as are prescribed by the surrogate court rules” in the fourth and fifth lines and inserting in lieu thereof “conditions as are prescribed by the rules of court”.

(9) Sections 21, 22 and 23 of the said Act are repealed.

(10) Section 26 of the said Act is repealed and the following substituted therefor:

Grant of
probate or
adminis-
tration,
jurisdiction

26.—(1) An application for a grant of probate or letters of administration shall be made to the Ontario Court (General Division) and shall be filed in the office for the county or district in which the testator or intestate had at the time of death a fixed place of abode.

Where
decedent had
no abode in
Ontario

(2) If the testator or intestate had no fixed place of abode in Ontario or resided out of Ontario at the time of death, the application shall be filed in the office for the county or district in which the testator or intestate had property at the time of death.

When
application
may be filed
in any office

(3) In other cases the application for probate or letters of administration may be filed in any office.

(11) Sections 27, 28 and 29 of the said Act are repealed.

(12) Subsection 30 (1) of the said Act is repealed and the following substituted therefor:

Trial of
questions of
fact by a
jury

(1) The court may cause any question of fact arising in any proceeding to be tried by a jury.

(13) Section 32 of the said Act is repealed.

(14) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

Right of
appeal

(1) Any party or person taking part in a proceeding under this Act may appeal to the Divisional Court from an order, determination or judgment of the Ontario Court (General

Division) if the value of the property affected by such order, determination or judgment exceeds \$200.

(15) Subsections 33 (4), (5) and (6) of the said Act are repealed.

(16) Section 34 of the said Act is repealed.

(17) Section 44 of the said Act is amended by striking out “surrogate court” in the sixth line and inserting in lieu thereof “office of the Ontario Court (General Division)”.

(18) Section 45 of the said Act is repealed and the following substituted therefor:

45. If it appears by the certificate of the Estate Registrar for Ontario that application for probate or administration has been filed in two or more court offices, the proceedings shall be stayed until, on motion, a judge of the Ontario Court (General Division) determines where the application will proceed.

Where
application
filed in more
than one
office

(19) Section 60 of the said Act is amended by striking out “judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “Accountant of the Ontario Court”.

(20) Subsection 74 (1) of the said Act is repealed.

(21) Subsection 74 (3) of the said Act is repealed and the following substituted therefor:

(3) The judge, on passing the accounts of an executor, administrator or such a trustee, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and its administration and disbursement.

Powers of
judge on
passing
accounts

(22) Subsection 74 (6) of the said Act is repealed.

(23) Section 78 of the said Act is repealed.

(24) Section 80 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(25) The title to the *Surrogate Courts Act* is repealed and the following substituted therefor:

ESTATES ACT

49.—(1) Section 1 of the *Territorial Division Act*, being chapter 497 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 57, section 4, is further amended by striking out “5, 5a, 6, 7 and 8 for municipal and judicial purposes such counties, and for judicial purposes such districts and metropolitan and regional areas, are respectively” in the third, fourth, fifth and sixth lines and inserting in lieu thereof “and 5, for municipal purposes such counties are”.

(2) Paragraph 2 of section 1 of the said Act is amended by striking out the following sentences at the end thereof:

“The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

“The Indian Reserve at Chief’s Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel”.

(3) Paragraph 42 of the said section 1 is amended by striking out “The Territorial District of Algoma forms the Provisional Judicial District of Algoma” in the seventh and eighth lines from the end thereof.

(4) Paragraph 43 of the said section 1 is amended by striking out “The Territorial District of Cochrane forms the Provisional Judicial District of Cochrane” at the end thereof.

(5) Paragraph 44 of the said section 1 is amended by striking out “The Territorial District of Kenora forms the Provisional Judicial District of Kenora” at the end thereof.

(6) Paragraph 45 of the said section 1 is amended by striking out “The Territorial District of Manitoulin forms the Provisional Judicial District of Manitoulin” at the end thereof.

(7) Paragraph 46 of the said section 1 is amended by striking out “The District Municipality of Muskoka forms the Provisional Judicial District of Muskoka” at the end thereof.

(8) Paragraph 47 of the said section 1 is amended by striking out “The Territorial District of Nipissing forms the Provisional Judicial District of Nipissing” at the end thereof.

(9) Paragraph 48 of the said section 1 is amended by striking out “The Territorial District of Parry Sound forms the Provisional Judicial District of Parry Sound” at the end thereof.

(10) Paragraph 49 of the said section 1 is amended by striking out “The Territorial District of Rainy River forms the Provisional Judicial District of Rainy River” at the end thereof.

(11) Paragraph 50 of the said section 1, as amended by the Statutes of Ontario, 1986, chapter 52, section 1, is further amended by striking out “The Territorial District of Sudbury forms the Provisional Judicial District of Sudbury” at the end thereof.

(12) Paragraph 51 of the said section 1 is amended by striking out “The Territorial District of Thunder Bay forms the Provisional Judicial District of Thunder Bay” at the end thereof.

(13) Paragraph 52 of the said section 1 is amended by striking out “The Territorial District of Timiskaming forms the Provisional Judicial District of Timiskaming” at the end thereof.

(14) Subsection 4 (1) of the said Act is amended by striking out “judicial” in the first line.

(15) Subsection 4 (2) of the said Act is amended by striking out “courts” in the fourth line.

(16) Section 5 of the said Act is repealed and the following substituted therefor:

5. For municipal purposes, cities, towns and other municipalities withdrawn from the jurisdiction of a county do not form part of the counties in which they are respectively situate. Cities and towns

(17) Section 5a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 57, section 4, is repealed.

(18) Sections 6, 7 and 8 of the said Act are repealed.

(19) Clause 15 (b) of the said Act is amended by striking out “or provisional judicial district” in the first and second lines.

50. Subsection 13 (2) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or with the local registrar of the Supreme Court” in the fourth and fifth lines

and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

51. Subsection 27 (1) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is amended by striking out “The Registrar of the Supreme Court and every local registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “Every local registrar of the Ontario Court (General Division)”.

52.—(1) Subsection 10 (1) of the *Woodmen’s Lien for Wages Act*, being chapter 537 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the third line and in the sixth line and inserting in lieu thereof in each instance “the monetary jurisdiction of the Small Claims Court”.

(2) Section 16 of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

(3) Subsection 17 (1) of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

53. Section 116 of the *Workers’ Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the ninth line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

Commence-
ment

54. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

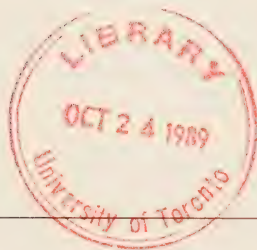
Short title

55. The short title of this Act is the *Court Reform Statute Law Amendment Act, 1989*.

Bill 3

An Act to amend certain Statutes of Ontario Consequent upon Amendments to the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General



1st Reading May 1st, 1989
2nd Reading June 14th, 1989
3rd Reading
Royal Assent

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTE

The Bill repeals the *Sheriffs Act* and makes amendments to 52 other statutes. The amendments are required as a result of the amendments set out in the *Courts of Justice Amendment Act, 1989* changing the structure and administration of the courts.

Bill 3

1989

An Act to amend certain Statutes of Ontario Consequent upon Amendments to the Courts of Justice Act, 1984

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 23 (8) of the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$200 or less” in the third line and inserting in lieu thereof “within the monetary jurisdiction of the Small Claims Court”.

(2) Subsection 29 (3) of the said Act is amended by striking out “the judge of the surrogate court of the Judicial District of York” in the fourth and fifth lines and inserting in lieu thereof “a judge of the Ontario Court (General Division) sitting in The Municipality of Metropolitan Toronto”.

2. Subsection 63 (1) of the *Child and Family Services Act*, 1984, being chapter 55, is repealed and the following substituted therefor:

(1) The Minister may appoint a judge of the Ontario Court of Justice or the Unified Family Court to investigate a matter relating to a child in a society’s care or the proper administration of this Part, and a judge who is appointed shall conduct the investigation and make a written report to the Minister.

Investigation
by judge

3.—(1) Section 3 of the *Children’s Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District” in the second and third lines and inserting in lieu thereof “The Regional Municipality”.

(2) Section 73 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

Order made
under
R.S.O. 1980,
c. 292

73.—(1) An application to vary an order made by a surrogate court under the *Minors Act* shall be made to the Ontario Court (General Division).

Idem
1984, c. 11

(2) Section 160 of the *Courts of Justice Act, 1984* does not apply to subsection (1) to deem the reference to a surrogate court to be a reference to the Ontario Court (General Division).

4.—(1) Section 51 of the *Construction Lien Act, 1983*, being chapter 6, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(2) Section 52 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(3) Section 53 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Court to
dispose
completely of
action

53. The court, whether the action is being tried by a judge or by a master on a reference,

(a) shall try the action, including any set-off, cross-claim, counterclaim and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and liabilities of the persons appearing before it or upon whom notice of trial has been served; and

(b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

(4) Section 54 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Where
exclusive
jurisdiction
not acquired

54. A judge or master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of appointing the time and place for the trial of the action or reference, or for holding a settlement meeting.

(5) Subsection 60 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(1) On motion made after the delivery of all statements of defence, or the statements of defence to all crossclaims, counterclaims or third party claims, if any, or the time for their delivery has expired, a judge may refer the whole action for trial to a master assigned to the county or district in which the premises or part of the premises are situate. Reference to master

(1a) A master shall not hear or dispose of a motion made under subsection (1). Idem

(6) Subsection 60 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(2) At the trial, a judge may direct a reference to a master assigned to the county or district in which the premises or part of the premises are situate. Idem

(2a) A master to whom a reference has been directed has all the jurisdiction, powers and authority of the court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court. Powers of master on reference

(7) Subsection 60 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(3) Where under subsection (1) the action has been referred to a master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge of the court that directed the reference to set aside the judgment directing the reference. Application to set aside order of reference

(8) Clause 64 (1) (b) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(b) in a report in the prescribed form, where the trial is conducted by a master on a reference.

(9) Subsection 64 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(3) The report of a master shall be deemed to be confirmed at the expiration of the fifteen-day period next following the date that the notice of filing was given, unless notice of a When report deemed confirmed

motion to oppose confirmation of the report is served within that time.

5.—(1) Subsection 48 (3) of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the fifth and sixth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

(2) Section 49 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the thirteenth and fourteenth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

6. Subsection 6 (1) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Chief Judge of the County and District Courts” in the second line and inserting in lieu thereof “a judge of the Ontario Court (General Division) designated by the Chief Judge of the Ontario Court”.

7.—(1) Subsection 78 (2) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 80 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

8.—(1) Clause 3 (2) (a) of the *County of Haliburton Act*, 1982, being chapter 57, is repealed.

(2) Subsection 4 (4) of the said Act is repealed.

9.—(1) Section 3 of the *Creditors' Relief Act*, being chapter 103 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 1, section 1, is amended by adding thereto the following subsection:

(2) Subsection (1) does not affect the priority of a creditor by execution or garnishment issued by the Small Claims Court. Exception

(2) Subsection 22 (2) of the said Act is repealed and the following substituted therefor:

(2) Such costs shall be ascertained in accordance with the tariffs of costs under the rules of court applicable to, Scale of costs

- (a) the Small Claims Court, if the claim is within the monetary jurisdiction of that court; or
- (b) the Ontario Court (General Division), in any other case.

10.—(1) Subsection 3 (1) of the *Crown Attorneys Act*, being chapter 107 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District of York” in the third and fourth lines and in the sixth line and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(2) Subsection 3 (2) of the said Act is amended by striking out “the Judicial District of York” wherever it occurs and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(3) Subclause 12 (b) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 170, is repealed.

11.—(1) Subsection 4 (3) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 112 (1) of the said Act is amended by striking out “district court within the District Area or a judge of the county court or district court of a county or district adjoining the District Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

12.—(1) Section 69 of the *Election Act, 1984*, being chapter 54, is repealed and the following substituted therefor:

69. In this section and in sections 70 to 80, unless otherwise stated, “judge” means a judge of the Ontario Court (Provincial Division). Definition



(2) Subsection 70 (2) of the said Act is amended by striking out “the clerk of the county or district court” in the third line

and inserting in lieu thereof “a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate”.

(3) Subsection 72 (2) of the said Act is amended by striking out “of the county or district court” in the first and second lines.

(4) Section 78 of the said Act is amended by striking out “court of the county or judicial district” in the fourth and fifth lines and inserting in lieu thereof “Ontario Court (Provincial Division)”.

(5) Subsection 79 (3) of the said Act is amended by striking out “Registrar of the Supreme Court” in the fifth and sixth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate” and by striking out “Registrar” in the eighth line and inserting in lieu thereof “local registrar”.

(6) Subsections 79 (4) and (5) of the said Act are amended by striking out “Registrar” wherever it occurs and inserting in lieu thereof in each instance “local registrar”.

(7) Subsection 85 (5) of the said Act is amended by striking out “Registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate” and by striking out “Registrar” in the fourth line and inserting in lieu thereof “local registrar”.

(8) Subsections 98 (5) and (6) of the said Act are repealed and the following substituted therefor:

Local
registrar to
notify
C.E.O.

(5) When an action is commenced by a person other than the Chief Election Officer, the local registrar of the Ontario Court (General Division) shall notify the Chief Election Officer by registered mail.

(9) Subsection 103 (3) of the said Act is amended by striking out “Registrar of the Supreme Court” in the second line and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(10) Subsection 105 (1) of the said Act is amended by striking out “Registrar of the Supreme Court” in the sixth and seventh lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(11) Subsection 106 (7) of the said Act is amended by striking out “Registrar of the Supreme Court” in the first line and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(12) Subsection 107 (2) of the said Act is amended by striking out “Registrar” in the second line and inserting in lieu thereof “local registrar”.

(13) Subsection 109 (2) of the said Act is repealed and the following substituted therefor:

(2) The appeal shall be heard as speedily as practicable.

Appeal to be
heard
speedily

13. Section 49 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is amended by striking out “surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “court that granted it or under the seal of the Ontario Court (General Division)”.

14. Subsections 24 (2) and (3) of the *Fraudulent Debtors Arrest Act*, being chapter 177 of the Revised Statutes of Ontario, 1980, are repealed.

15.—(1) Subsection 14 (6) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the third and fourth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 14 (10) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

16. Subsection 14 (2) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or with the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

17.—(1) Clause 20 (3) (a) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the court” in the fifth, sixth and seventh

lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 21 (3) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(3) Subsection 21 (6) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the court, as the case may be” in the first, second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

18. Subsection 19 (2) of the *Industrial Standards Act*, being chapter 216 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the fifth line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

19. Section 61 of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Master of the Supreme Court” in the fourth line and inserting in lieu thereof “a referee in a proceeding in the Ontario Court (General Division)”.

20.—(1) Clause 27 (i) of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (i) where the time limited for a proceeding or for the doing of any thing in a court office, a land registry office or a sheriff’s office expires or falls on a day that is prescribed as a holiday for that office, the time so limited extends to and the thing may be done on the day next following that is not a holiday.

(2) Paragraphs 9 and 35 of section 30 of the said Act are repealed.

21.—(1) Subsection 5 (3) of the *Juries Act*, being chapter 226 of the Revised Statutes of Ontario, 1980, is amended by adding “and” at the end of clause (a) and by striking out clauses (b) and (c) and inserting in lieu thereof:

- (b) to the local registrar of the Ontario Court (General Division), a copy of the determination for the number of jurors under clause (1) (a).

(2) Subsection 12 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed and the following substituted therefor:

(1) A judge of the Ontario Court (General Division) may issue precepts in the form prescribed by the regulations to the sheriff for the return of such number of jurors as the sheriff has determined as the number to be drafted and returned or such greater or lesser number as in his or her opinion is required. Issuance of precepts

(3) Subsection 12 (1a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed.

(4) Subsection 12 (2) of the said Act is repealed.

(5) Subsection 39 (2) of the said Act is amended by striking out “Registrar or the local registrar of the Supreme Court, as the case may be” in the third and fourth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

22.—(1) Clauses 9 (1) (a), (b) and (c) of the *Justices of the Peace Act, 1989*, being chapter 46, are repealed and the following substituted therefor:

- (a) the Chief Judge of the Ontario Court (Provincial Division) who shall preside over the Review Council;
- (b) the Co-ordinator;
- (c) the regional senior judge of the Ontario Court (Provincial Division) in the region in which the matter being considered by the Council arises.

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- a) le juge en chef de la Cour de l'Ontario (Division provinciale), qui préside le Conseil;
- b) le coordonnateur;
- c) le juge principal régional de la Cour de l'Ontario (Division provinciale) de la région où se présente l'affaire dont traite le Conseil.

(2) Subsection 14 (1) of the said Act is repealed and the following substituted therefor:

Co-ordinator
to supervise
justices,
assign duties

(1) The Co-ordinator has general supervision and direction over sittings of justices of the peace and the assignment of their duties, subject to the direction of the Chief Judge of the Ontario Court (Provincial Division).

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Surveillance,
etc., par le
coordon-
nateur

(1) Le coordonnateur est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions, sous réserve de la direction du juge en chef de la Cour de l'Ontario (Division provinciale).

(3) Subsection 14 (6) of the said Act is amended by striking out "a" in the fourth line of the English version and inserting in lieu thereof "the" and by striking out "d'un" in the fifth line of the French version and inserting in lieu thereof "du".



23. Subsection 12 (2) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the Local Registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

24.—(1) Sections 69 and 70 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 74 of the said Act is repealed and the following substituted therefor:

Scale of costs

74. The costs of the proceeding before the judge shall be on the Small Claims Court scale if the amount claimed by the landlord does not exceed the monetary jurisdiction of the Small Claims Court.

25. Section 49 of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court" in the fourth line and inserting in lieu thereof "local registrar of the Ontario Court (General Division) at Toronto".

26.—(1) Subsection 17 (3) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Transmission
of copy of
disclaimer

(3) The Clerk of the Assembly shall, on receiving a disclaimer, forthwith send a copy of it to the local registrar of the Ontario Court (General Division) for the county or district in

which is situate the electoral district or any part of the electoral district for which the member so disclaiming was elected.

(2) Subsection 47 (2) of the said Act is amended by striking out “the Judicial District of York” in the second and third lines and inserting in lieu thereof “The Municipality of Metropolitan Toronto”.

27. Subsection 13 (4) of the *Libel and Slander Act*, being chapter 237 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(4) An order made under this section is final and is not subject to appeal.

Order of
judge
respecting
security final

28.—(1) Subsection 10 (1) of the *Master and Servant Act*, being chapter 257 of the Revised Statutes of Ontario, 1980, is amended by striking out “small claims court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the small claims court held in the division in which the party or parties complained against or one of them carried on business” in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof “Ontario Court (General Division)”.

(2) Section 11 of the said Act is repealed.

29. Subsection 102 (1) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out “county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate” in the second, third, fourth, fifth and sixth lines and inserting in lieu thereof “Ontario Court (General Division)”.

30.—(1) Subsection 87 (1) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court of” in the ninth line and inserting in lieu thereof “Ontario Court (Provincial Division) sitting in”.

(2) Subsection 87 (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “the local registrar of the District Court” in the third line and inserting in lieu thereof “a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate”.

(3) Subsection 88c (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court” in the fourth line and inserting in lieu thereof “Ontario Court (Provincial Division)”.

(4) Subsection 88c (2) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court” in the fourth line and inserting in lieu thereof “Ontario Court (Provincial Division)”.

(5) Section 88j of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted therefor:

Appeal from
decision of
provincial
judge or
recount
officer

88j.—(1) Any party may appeal to the Ontario Court (General Division) from the decision of the provincial judge on the application or of the recount officer on the recount, as the case may be, by giving written notice not more than five days following the completion of the hearing or the recount to the other parties concerned and to the provincial judge or the recount officer and the notice may limit the appeal to specified disputed ballots.

Service of
notice

(2) The notice shall be served upon the other parties personally or upon the solicitor who acted for the party or in the manner that a judge of the Ontario Court (General Division) may direct.

Documents
to be
forwarded

(3) The provincial judge or recount officer shall forward to the local registrar of the Ontario Court (General Division) by registered mail,

- (a) the notice of appeal;
- (b) a certificate showing the findings of the provincial judge or recount officer on the ballots or statements in dispute;
- (c) if the appeal is limited to specified disputed ballots, the ballots or statements of the vote that are the subject of the appeal in the envelopes described in subsection 88c (7) and section 88d; and
- (d) if the appeal is not limited, all of the ballots in the envelopes referred to in clause 88c (8) (b) or 88e (1) (b).

Certificate to
be issued
after appeal

(4) The provincial judge or recount officer shall await the result of the appeal before preparing the certificate under subsection 88c (8) or 88e (2).

(5) The provincial judge or recount officer shall, upon request, allow each party to make a copy of the order or certificate, as the case may be, before it is forwarded to the local registrar.

Copy of
certificate

(6) On receipt of the ballots, notice and statement, the local registrar shall immediately fix a time for hearing the appeal and shall notify the parties or their solicitors of the time so fixed.

Appointment
for hearing

(7) One judge of the Ontario Court (General Division) shall determine the objection pertaining to, or count again, the ballots or such of them as are the subject of appeal, or review the re-addition, as the case may be, and shall immediately certify in writing the decision of the court to the provincial judge or to the recount officer.

Determi-
nation by
General
Division

(8) The provincial judge or recount officer, in compliance with the decision of the Ontario Court (General Division), shall certify the result without delay.

Certificate to
reflect
decision

31. Subsection 252 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “county court of the Judicial District of York, or a judge of the county court of a judicial district adjoining the Judicial District of York” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

32. Subsection 121 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out “county court within the County or a judge of the county court of a county or judicial district adjoining the County” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

33.—(1) Subsection 11 (9) of the *Provincial Land Tax Act*, being chapter 399 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out “Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court” in the fourth, fifth and sixth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 11 (11) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

34.—(1) Clause 1 (1) (j) of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is amended by striking out “court” in the first line and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(2) Subsection 31 (2) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the third and fourth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(3) Subsection 31 (3) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the fourth and fifth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(4) The said Act is amended by adding thereto the following section:

Contempt

90a.—(1) Except as otherwise provided by an Act, every person who commits contempt in the face of a justice of the peace presiding over the Ontario Court (Provincial Division) in a proceeding under this Act is on conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement to
offender

(2) Before a proceeding is taken for contempt under subsection (1), the justice of the peace shall inform the offender of the conduct complained of and the nature of the contempt and inform him or her of the right to show cause why he or she should not be punished.

Show cause

(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he or she should not be punished.

Adjournment
for adjudi-
cation

(4) Except where, in the opinion of the justice of the peace, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the justice of the peace shall adjourn the contempt proceeding to another day.

Adjudication
by judge

(5) A contempt proceeding that is adjourned to another day under subsection (4) shall be heard and determined by the court presided over by a provincial judge.

Arrest for
immediate
adjudication

(6) Where the justice of the peace proceeds to deal with a contempt immediately and without adjournment under subsection (4), the justice of the peace may order the offender

arrested and detained in the courtroom for the purpose of the hearing and determination.

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he or she be barred from acting as agent in the proceeding in addition to any other punishment to which he or she is liable. Barring agent
in contempt

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in a proceeding commenced by certificate under Part I of this Act. Appeals

(9) This Act applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section. Enforcement

(5) Section 91m of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 80, section 1, is amended by striking out “provincial court (criminal division)” in the sixth line and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge”.

(6) Clause 99 (2) (a) of the said Act is amended by striking out “provincial court (criminal division) of” in the second and third lines and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge sitting in”.

(7) Subsection 118 (1) of the said Act is amended by striking out “provincial court (criminal division) of” in the fifth line and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge sitting in”.

➡
(8) Subsection 122 (1) of the said Act is repealed and the following substituted therefor:

(1) An appeal lies from the judgment of the Ontario Court (Provincial Division) in an appeal under section 118 to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone. Appeal to
Court of
Appeal
▲

(9) Section 123 of the said Act is repealed.

(10) Subsection 142 (1) of the said Act is amended by striking out “in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated” in the thirteenth, fourteenth and fifteenth lines.

35.—(1) Subsections 5 (3) and (4) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 133 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

36.—(1) Subsections 5 (3), (4) and (6) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 116 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

37.—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 126 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

38.—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 138 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

39.—(1) Subsections 4 (3) and (4) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 165 (1) of the said Act is amended by striking out “either of the county courts within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “the Ontario Court (General Division)”.

40.—(1) Subsection 2 (3) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 168 (1) of the said Act is amended by striking out “county court of the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

41.—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 121 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

42.—(1) Subsection 4 (3) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 108 (1) of the said Act is amended by striking out “district court within the Regional Area or a judge of the district court of a district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

43.—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 156 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

44.—(1) Subsection 4 (3) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 157 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

45.—(1) Subsection 23 (2) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 25 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

46. The *Sheriffs Act*, being chapter 470 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 11, section 212 and 1989, chapter 24, section 2, is repealed.

47. Subsection 35 (1) of the *Statute Labour Act*, being chapter 482 of the Revised Statutes of Ontario, 1980, is amended by striking out “Provisional Judicial” in the fifteenth line and inserting in lieu thereof “Territorial”.

48.—(1) Sections 2, 4 and 5 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Sections 6 and 7 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, are repealed.

(3) Sections 8 and 9 of the said Act are repealed.

(4) Section 11 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 10, section 1, is repealed.

(5) Section 12 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(6) Sections 14 and 15 of the said Act are repealed.

(7) Section 17 of the said Act is repealed and the following substituted therefor:

17. The office of the local registrar of the Ontario Court (General Division) is a depository for all wills of living persons given there for safekeeping, and the local registrar shall receive and keep those wills under such regulations as are prescribed by the rules of court.

Depository
for the wills
of living
persons

(8) Section 18 of the said Act is amended by striking out “regulations as are prescribed by the surrogate court rules” in the fourth and fifth lines and inserting in lieu thereof “conditions as are prescribed by the rules of court”.

(9) Sections 21, 22 and 23 of the said Act are repealed.

(10) Section 26 of the said Act is repealed and the following substituted therefor:

26.—(1) An application for a grant of probate or letters of administration shall be made to the Ontario Court (General Division) and shall be filed in the office for the county or district in which the testator or intestate had at the time of death a fixed place of abode.

Grant of
probate or
adminis-
tration,
jurisdiction

(2) If the testator or intestate had no fixed place of abode in Ontario or resided out of Ontario at the time of death, the application shall be filed in the office for the county or district in which the testator or intestate had property at the time of death.

Where
decedent had
no abode in
Ontario

(3) In other cases the application for probate or letters of administration may be filed in any office.

When
application
may be filed
in any office

(11) Sections 27, 28 and 29 of the said Act are repealed.

(12) Subsection 30 (1) of the said Act is repealed and the following substituted therefor:

(1) The court may cause any question of fact arising in any proceeding to be tried by a jury.

Trial of
questions of
fact by a
jury

(13) Section 32 of the said Act is repealed.

(14) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

(1) Any party or person taking part in a proceeding under this Act may appeal to the Divisional Court from an order, determination or judgment of the Ontario Court (General Division) if the value of the property affected by such order, determination or judgment exceeds \$200.

Right of
appeal

(15) Subsections 33 (4), (5) and (6) of the said Act are repealed.

(16) Section 34 of the said Act is repealed.

(17) Section 44 of the said Act is amended by striking out “surrogate court” in the sixth line and inserting in lieu thereof “office of the Ontario Court (General Division)”.

(18) Section 45 of the said Act is repealed and the following substituted therefor:

Where
application
filed in more
than one
office

45. If it appears by the certificate of the Estate Registrar for Ontario that application for probate or administration has been filed in two or more court offices, the proceedings shall be stayed until, on motion, a judge of the Ontario Court (General Division) determines where the application will proceed.

(19) Section 60 of the said Act is amended by striking out “judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “Accountant of the Ontario Court”.

(20) Subsection 74 (1) of the said Act is repealed.

(21) Subsection 74 (3) of the said Act is repealed and the following substituted therefor:

Powers of
judge on
passing
accounts

(3) The judge, on passing the accounts of an executor, administrator or trustee under a will of which the trustee is an executor, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and its administration and disbursement.

(22) Subsection 74 (6) of the said Act is repealed.

(23) Section 78 of the said Act is repealed.

(24) Section 80 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(25) The title to the *Surrogate Courts Act* is repealed and the following substituted therefor:

ESTATES ACT

49.—(1) Section 1 of the *Territorial Division Act*, being chapter 497 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 57, section 4, is further amended by striking out “5, 5a, 6, 7 and 8 for municipal and judicial purposes such counties, and for judicial

purposes such districts and metropolitan and regional areas, are respectively” in the third, fourth, fifth and sixth lines and inserting in lieu thereof “and 5, for municipal purposes such counties are”.

(2) Paragraph 2 of section 1 of the said Act is amended by striking out the following sentences at the end thereof:

“The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

“The Indian Reserve at Chief’s Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel”.

(3) Paragraph 42 of the said section 1 is amended by striking out “The Territorial District of Algoma forms the Provisional Judicial District of Algoma” in the seventh and eighth lines from the end thereof.

(4) Paragraph 43 of the said section 1 is amended by striking out “The Territorial District of Cochrane forms the Provisional Judicial District of Cochrane” at the end thereof.

(5) Paragraph 44 of the said section 1 is amended by striking out “The Territorial District of Kenora forms the Provisional Judicial District of Kenora” at the end thereof.

(6) Paragraph 45 of the said section 1 is amended by striking out “The Territorial District of Manitoulin forms the Provisional Judicial District of Manitoulin” at the end thereof.

(7) Paragraph 46 of the said section 1 is amended by striking out “The District Municipality of Muskoka forms the Provisional Judicial District of Muskoka” at the end thereof.

(8) Paragraph 47 of the said section 1 is amended by striking out “The Territorial District of Nipissing forms the Provisional Judicial District of Nipissing” at the end thereof.

(9) Paragraph 48 of the said section 1 is amended by striking out “The Territorial District of Parry Sound forms the Provisional Judicial District of Parry Sound” at the end thereof.

(10) Paragraph 49 of the said section 1 is amended by striking out “The Territorial District of Rainy River forms the Provisional Judicial District of Rainy River” at the end thereof.

(11) Paragraph 50 of the said section 1, as amended by the Statutes of Ontario, 1986, chapter 52, section 1, is further amended by striking out "The Territorial District of Sudbury forms the Provisional Judicial District of Sudbury" at the end thereof.

(12) Paragraph 51 of the said section 1 is amended by striking out "The Territorial District of Thunder Bay forms the Provisional Judicial District of Thunder Bay" at the end thereof.

(13) Paragraph 52 of the said section 1 is amended by striking out "The Territorial District of Timiskaming forms the Provisional Judicial District of Timiskaming" at the end thereof.

(14) Subsection 4 (1) of the said Act is amended by striking out "judicial" in the first line.

(15) Subsection 4 (2) of the said Act is amended by striking out "courts" in the fourth line.

(16) Section 5 of the said Act is repealed and the following substituted therefor:

Cities and
towns

5. For municipal purposes, cities, towns and other municipalities withdrawn from the jurisdiction of a county do not form part of the counties in which they are respectively situate.

(17) Section 5a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 57, section 4, is repealed.

(18) Sections 6, 7 and 8 of the said Act are repealed.

(19) Clause 15 (b) of the said Act is amended by striking out "or provisional judicial district" in the first and second lines.

50. Subsection 13 (2) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the local registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

51. Subsection 27 (1) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is amended by striking out "The Registrar of the Supreme Court and every local registrar of the Supreme Court" in the first and second

lines and inserting in lieu thereof “Every local registrar of the Ontario Court (General Division)”.

52.—(1) Subsection 10 (1) of the *Woodmen’s Lien for Wages Act*, being chapter 537 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the third line and in the sixth line and inserting in lieu thereof in each instance “the monetary jurisdiction of the Small Claims Court”.

(2) Section 16 of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

(3) Subsection 17 (1) of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

53. Section 116 of the *Workers’ Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the ninth line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

54. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

55. The short title of this Act is the *Court Reform Statute Law Amendment Act, 1989*. Short title

Bill 3

An Act to amend certain Statutes of Ontario Consequent upon Amendments to the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General



1st Reading May 1st, 1989
2nd Reading June 14th, 1989
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Bill repeals the *Sheriffs Act* and makes amendments to 52 other statutes. The amendments are required as a result of the amendments set out in the *Courts of Justice Amendment Act, 1989* changing the structure and administration of the courts.

Bill 3

1989

An Act to amend certain Statutes of Ontario Consequent upon Amendments to the Courts of Justice Act, 1984

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 23 (8) of the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$200 or less” in the third line and inserting in lieu thereof “within the monetary jurisdiction of the Small Claims Court”.

(2) Subsection 29 (3) of the said Act is amended by striking out “the judge of the surrogate court of the Judicial District of York” in the fourth and fifth lines and inserting in lieu thereof “a judge of the Ontario Court (General Division) sitting in The Municipality of Metropolitan Toronto”.

2. Subsection 63 (1) of the *Child and Family Services Act*, 1984, being chapter 55, is repealed and the following substituted therefor:

(1) The Minister may appoint a judge of the Ontario Court of Justice or the Unified Family Court to investigate a matter relating to a child in a society’s care or the proper administration of this Part, and a judge who is appointed shall conduct the investigation and make a written report to the Minister.

Investigation
by judge

3.—(1) Section 3 of the *Children’s Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District” in the second and third lines and inserting in lieu thereof “The Regional Municipality”.

(2) Section 73 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

Order made
under
R.S.O. 1980,
c. 292

73.—(1) An application to vary an order made by a surrogate court under the *Minors Act* shall be made to the Ontario Court (General Division).

Idem
1984, c. 11

(2) Section 160 of the *Courts of Justice Act, 1984* does not apply to subsection (1) to deem the reference to a surrogate court to be a reference to the Ontario Court (General Division).

4.—(1) Section 51 of the *Construction Lien Act, 1983*, being chapter 6, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(2) Section 52 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(3) Section 53 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Court to
dispose
completely of
action

53. The court, whether the action is being tried by a judge or by a master on a reference,

- (a) shall try the action, including any set-off, cross-claim, counterclaim and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and liabilities of the persons appearing before it or upon whom notice of trial has been served; and
- (b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

(4) Section 54 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Where
exclusive
jurisdiction
not acquired

54. A judge or master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of appointing the time and place for the trial of the action or reference, or for holding a settlement meeting.

(5) Subsection 60 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(1) On motion made after the delivery of all statements of defence, or the statements of defence to all crossclaims, counterclaims or third party claims, if any, or the time for their delivery has expired, a judge may refer the whole action for trial to a master assigned to the county or district in which the premises or part of the premises are situate. Reference to master

(1a) A master shall not hear or dispose of a motion made under subsection (1). Idem

(6) Subsection 60 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(2) At the trial, a judge may direct a reference to a master assigned to the county or district in which the premises or part of the premises are situate. Idem

(2a) A master to whom a reference has been directed has all the jurisdiction, powers and authority of the court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court. Powers of master on reference

(7) Subsection 60 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(3) Where under subsection (1) the action has been referred to a master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge of the court that directed the reference to set aside the judgment directing the reference. Application to set aside order of reference

(8) Clause 64 (1) (b) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(b) in a report in the prescribed form, where the trial is conducted by a master on a reference.

(9) Subsection 64 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(3) The report of a master shall be deemed to be confirmed at the expiration of the fifteen-day period next following the date that the notice of filing was given, unless notice of a When report deemed confirmed

motion to oppose confirmation of the report is served within that time.

5.—(1) Subsection 48 (3) of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the fifth and sixth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

(2) Section 49 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the thirteenth and fourteenth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

6. Subsection 6 (1) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Chief Judge of the County and District Courts” in the second line and inserting in lieu thereof “a judge of the Ontario Court (General Division) designated by the Chief Justice of the Ontario Court”.

7.—(1) Subsection 78 (2) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 80 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

8.—(1) Clause 3 (2) (a) of the *County of Haliburton Act*, 1982, being chapter 57, is repealed.

(2) Subsection 4 (4) of the said Act is repealed.

9.—(1) Section 3 of the *Creditors' Relief Act*, being chapter 103 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 1, section 1, is amended by adding thereto the following subsection:

(2) Subsection (1) does not affect the priority of a creditor by execution or garnishment issued by the Small Claims Court. Exception

(2) Subsection 22 (2) of the said Act is repealed and the following substituted therefor:

(2) Such costs shall be ascertained in accordance with the tariffs of costs under the rules of court applicable to, Scale of costs

- (a) the Small Claims Court, if the claim is within the monetary jurisdiction of that court; or
- (b) the Ontario Court (General Division), in any other case.

10.—(1) Subsection 3 (1) of the *Crown Attorneys Act*, being chapter 107 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District of York” in the third and fourth lines and in the sixth line and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(2) Subsection 3 (2) of the said Act is amended by striking out “the Judicial District of York” wherever it occurs and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(3) Subclause 12 (b) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 170, is repealed.

11.—(1) Subsection 4 (3) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 112 (1) of the said Act is amended by striking out “district court within the District Area or a judge of the county court or district court of a county or district adjoining the District Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

12.—(1) Section 69 of the *Election Act, 1984*, being chapter 54, is repealed and the following substituted therefor:

69. In this section and in sections 70 to 80, unless otherwise stated, “judge” means a judge of the Ontario Court (Provincial Division). Definition

(2) Subsection 70 (2) of the said Act is amended by striking out “the clerk of the county or district court” in the third line

and inserting in lieu thereof “a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate”.

(3) Subsection 72 (2) of the said Act is amended by striking out “of the county or district court” in the first and second lines.

(4) Section 78 of the said Act is amended by striking out “court of the county or judicial district” in the fourth and fifth lines and inserting in lieu thereof “Ontario Court (Provincial Division)”.

(5) Subsection 79 (3) of the said Act is amended by striking out “Registrar of the Supreme Court” in the fifth and sixth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate” and by striking out “Registrar” in the eighth line and inserting in lieu thereof “local registrar”.

(6) Subsections 79 (4) and (5) of the said Act are amended by striking out “Registrar” wherever it occurs and inserting in lieu thereof in each instance “local registrar”.

(7) Subsection 85 (5) of the said Act is amended by striking out “Registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate” and by striking out “Registrar” in the fourth line and inserting in lieu thereof “local registrar”.

(8) Subsections 98 (5) and (6) of the said Act are repealed and the following substituted therefor:

Local
registrar to
notify
C.E.O.

(5) When an action is commenced by a person other than the Chief Election Officer, the local registrar of the Ontario Court (General Division) shall notify the Chief Election Officer by registered mail.

(9) Subsection 103 (3) of the said Act is amended by striking out “Registrar of the Supreme Court” in the second line and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(10) Subsection 105 (1) of the said Act is amended by striking out “Registrar of the Supreme Court” in the sixth and seventh lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(11) Subsection 106 (7) of the said Act is amended by striking out “Registrar of the Supreme Court” in the first line and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(12) Subsection 107 (2) of the said Act is amended by striking out “Registrar” in the second line and inserting in lieu thereof “local registrar”.

(13) Subsection 109 (2) of the said Act is repealed and the following substituted therefor:

(2) The appeal shall be heard as speedily as practicable.

Appeal to be
heard
speedily

13. Section 49 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is amended by striking out “surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “court that granted it or under the seal of the Ontario Court (General Division)”.

14. Subsections 24 (2) and (3) of the *Fraudulent Debtors Arrest Act*, being chapter 177 of the Revised Statutes of Ontario, 1980, are repealed.

15.—(1) Subsection 14 (6) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the third and fourth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 14 (10) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

16. Subsection 14 (2) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or with the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

17.—(1) Clause 20 (3) (a) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the court” in the fifth, sixth and seventh

lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 21 (3) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(3) Subsection 21 (6) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the court, as the case may be” in the first, second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

18. Subsection 19 (2) of the *Industrial Standards Act*, being chapter 216 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the fifth line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

19. Section 61 of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Master of the Supreme Court” in the fourth line and inserting in lieu thereof “a referee in a proceeding in the Ontario Court (General Division)”.

20.—(1) Clause 27 (i) of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (i) where the time limited for a proceeding or for the doing of any thing in a court office, a land registry office or a sheriff's office expires or falls on a day that is prescribed as a holiday for that office, the time so limited extends to and the thing may be done on the day next following that is not a holiday.

(2) Paragraphs 9 and 35 of section 30 of the said Act are repealed.

21.—(1) Subsection 5 (3) of the *Juries Act*, being chapter 226 of the Revised Statutes of Ontario, 1980, is amended by adding “and” at the end of clause (a) and by striking out clauses (b) and (c) and inserting in lieu thereof:

- (b) to the local registrar of the Ontario Court (General Division), a copy of the determination for the number of jurors under clause (1) (a).

(2) Subsection 12 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed and the following substituted therefor:

(1) A judge of the Ontario Court (General Division) may issue precepts in the form prescribed by the regulations to the sheriff for the return of such number of jurors as the sheriff has determined as the number to be drafted and returned or such greater or lesser number as in his or her opinion is required.

Issuance of
precepts

(3) Subsection 12 (1a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed.

(4) Subsection 12 (2) of the said Act is repealed.

(5) Subsection 39 (2) of the said Act is amended by striking out “Registrar or the local registrar of the Supreme Court, as the case may be” in the third and fourth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

22.—(1) Clauses 9 (1) (a), (b) and (c) of the *Justices of the Peace Act, 1989*, being chapter 46, are repealed and the following substituted therefor:

- (a) the Chief Judge of the Ontario Court (Provincial Division) who shall preside over the Review Council;
- (b) the Co-ordinator;
- (c) the regional senior judge of the Ontario Court (Provincial Division) in the region in which the matter being considered by the Council arises.

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- a) le juge en chef de la Cour de l’Ontario (Division provinciale), qui préside le Conseil;
- b) le coordonnateur;
- c) le juge principal régional de la Cour de l’Ontario (Division provinciale) de la région où se présente l’affaire dont traite le Conseil.

(2) Subsection 14 (1) of the said Act is repealed and the following substituted therefor:

Co-ordinator
to supervise
justices,
assign duties

(1) The Co-ordinator has general supervision and direction over sittings of justices of the peace and the assignment of their duties, subject to the direction of the Chief Judge of the Ontario Court (Provincial Division).

Surveillance,
etc., par le
coordon-
nateur

(1) Le coordonnateur est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions, sous réserve de la direction du juge en chef de la Cour de l'Ontario (Division provinciale).

(3) Subsection 14 (6) of the said Act is amended by striking out "a" in the fourth line of the English version and inserting in lieu thereof "the" and by striking out "d'un" in the fifth line of the French version and inserting in lieu thereof "du".

23. Subsection 12 (2) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the Local Registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

24.—(1) Sections 69 and 70 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 74 of the said Act is repealed and the following substituted therefor:

Scale of costs

74. The costs of the proceeding before the judge shall be on the Small Claims Court scale if the amount claimed by the landlord does not exceed the monetary jurisdiction of the Small Claims Court.

25. Section 49 of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court" in the fourth line and inserting in lieu thereof "local registrar of the Ontario Court (General Division) at Toronto".

26.—(1) Subsection 17 (3) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Transmission
of copy of
disclaimer

(3) The Clerk of the Assembly shall, on receiving a disclaimer, forthwith send a copy of it to the local registrar of the Ontario Court (General Division) for the county or district in

which is situate the electoral district or any part of the electoral district for which the member so disclaiming was elected.

(2) Subsection 47 (2) of the said Act is amended by striking out “the Judicial District of York” in the second and third lines and inserting in lieu thereof “The Municipality of Metropolitan Toronto”.

27. Subsection 13 (4) of the *Libel and Slander Act*, being chapter 237 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(4) An order made under this section is final and is not subject to appeal.

Order of
judge
respecting
security final

28.—(1) Subsection 10 (1) of the *Master and Servant Act*, being chapter 257 of the Revised Statutes of Ontario, 1980, is amended by striking out “small claims court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the small claims court held in the division in which the party or parties complained against or one of them carried on business” in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof “Ontario Court (General Division)”.

(2) Section 11 of the said Act is repealed.

29. Subsection 102 (1) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out “county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate” in the second, third, fourth, fifth and sixth lines and inserting in lieu thereof “Ontario Court (General Division)”.

30.—(1) Subsection 87 (1) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court of” in the ninth line and inserting in lieu thereof “Ontario Court (Provincial Division) sitting in”.

(2) Subsection 87 (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “the local registrar of the District Court” in the third line and inserting in lieu thereof “a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate”.

(3) Subsection 88c (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court” in the fourth line and inserting in lieu thereof “Ontario Court (Provincial Division)”.

(4) Subsection 88c (2) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court” in the fourth line and inserting in lieu thereof “Ontario Court (Provincial Division)”.

(5) Section 88j of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted therefor:

Appeal from
decision of
provincial
judge or
recount
officer

88j.—(1) Any party may appeal to the Ontario Court (General Division) from the decision of the provincial judge on the application or of the recount officer on the recount, as the case may be, by giving written notice not more than five days following the completion of the hearing or the recount to the other parties concerned and to the provincial judge or the recount officer and the notice may limit the appeal to specified disputed ballots.

Service of
notice

(2) The notice shall be served upon the other parties personally or upon the solicitor who acted for the party or in the manner that a judge of the Ontario Court (General Division) may direct.

Documents
to be
forwarded

(3) The provincial judge or recount officer shall forward to the local registrar of the Ontario Court (General Division) by registered mail,

- (a) the notice of appeal;
- (b) a certificate showing the findings of the provincial judge or recount officer on the ballots or statements in dispute;
- (c) if the appeal is limited to specified disputed ballots, the ballots or statements of the vote that are the subject of the appeal in the envelopes described in subsection 88c (7) and section 88d; and
- (d) if the appeal is not limited, all of the ballots in the envelopes referred to in clause 88c (8) (b) or 88e (1) (b).

Certificate to
be issued
after appeal

(4) The provincial judge or recount officer shall await the result of the appeal before preparing the certificate under subsection 88c (8) or 88e (2).

(5) The provincial judge or recount officer shall, upon request, allow each party to make a copy of the order or certificate, as the case may be, before it is forwarded to the local registrar.

Copy of
certificate

(6) On receipt of the ballots, notice and statement, the local registrar shall immediately fix a time for hearing the appeal and shall notify the parties or their solicitors of the time so fixed.

Appointment
for hearing

(7) One judge of the Ontario Court (General Division) shall determine the objection pertaining to, or count again, the ballots or such of them as are the subject of appeal, or review the re-addition, as the case may be, and shall immediately certify in writing the decision of the court to the provincial judge or to the recount officer.

Determi-
nation by
General
Division

(8) The provincial judge or recount officer, in compliance with the decision of the Ontario Court (General Division), shall certify the result without delay.

Certificate to
reflect
decision

31. Subsection 252 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “county court of the Judicial District of York, or a judge of the county court of a judicial district adjoining the Judicial District of York” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

32. Subsection 121 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out “county court within the County or a judge of the county court of a county or judicial district adjoining the County” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

33.—(1) Subsection 11 (9) of the *Provincial Land Tax Act*, being chapter 399 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out “Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court” in the fourth, fifth and sixth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 11 (11) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

34.—(1) Clause 1 (1) (j) of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is amended by striking out “court” in the first line and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(2) Subsection 31 (2) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the third and fourth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(3) Subsection 31 (3) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the fourth and fifth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(4) The said Act is amended by adding thereto the following section:

Contempt

90a.—(1) Except as otherwise provided by an Act, every person who commits contempt in the face of a justice of the peace presiding over the Ontario Court (Provincial Division) in a proceeding under this Act is on conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement to
offender

(2) Before a proceeding is taken for contempt under subsection (1), the justice of the peace shall inform the offender of the conduct complained of and the nature of the contempt and inform him or her of the right to show cause why he or she should not be punished.

Show cause

(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he or she should not be punished.

Adjournment
for adjudi-
cation

(4) Except where, in the opinion of the justice of the peace, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the justice of the peace shall adjourn the contempt proceeding to another day.

Adjudication
by judge

(5) A contempt proceeding that is adjourned to another day under subsection (4) shall be heard and determined by the court presided over by a provincial judge.

Arrest for
immediate
adjudication

(6) Where the justice of the peace proceeds to deal with a contempt immediately and without adjournment under subsection (4), the justice of the peace may order the offender

arrested and detained in the courtroom for the purpose of the hearing and determination.

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he or she be barred from acting as agent in the proceeding in addition to any other punishment to which he or she is liable. Barring agent
in contempt

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in a proceeding commenced by certificate under Part I of this Act. Appeals

(9) This Act applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section. Enforcement

(5) Section 91m of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 80, section 1, is amended by striking out “provincial court (criminal division)” in the sixth line and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge”.

(6) Clause 99 (2) (a) of the said Act is amended by striking out “provincial court (criminal division) of” in the second and third lines and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge sitting in”.

(7) Subsection 118 (1) of the said Act is amended by striking out “provincial court (criminal division) of” in the fifth line and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge sitting in”.

(8) Subsection 122 (1) of the said Act is repealed and the following substituted therefor:

(1) An appeal lies from the judgment of the Ontario Court (Provincial Division) in an appeal under section 118 to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone. Appeal to
Court of
Appeal

(9) Section 123 of the said Act is repealed.

(10) Subsection 142 (1) of the said Act is amended by striking out “in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated” in the thirteenth, fourteenth and fifteenth lines.

35.—(1) Subsections 5 (3) and (4) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 133 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

36.—(1) Subsections 5 (3), (4) and (6) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 116 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

37.—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 126 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

38.—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 138 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

39.—(1) Subsections 4 (3) and (4) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 165 (1) of the said Act is amended by striking out “either of the county courts within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “the Ontario Court (General Division)”.

40.—(1) Subsection 2 (3) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 168 (1) of the said Act is amended by striking out “county court of the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

41.—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 121 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

42.—(1) Subsection 4 (3) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 108 (1) of the said Act is amended by striking out “district court within the Regional Area or a judge of the district court of a district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

43.—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 156 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

44.—(1) Subsection 4 (3) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 157 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

45.—(1) Subsection 23 (2) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 25 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

46. The *Sheriffs Act*, being chapter 470 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 11, section 212 and 1989, chapter 24, section 2, is repealed.

47. Subsection 35 (1) of the *Statute Labour Act*, being chapter 482 of the Revised Statutes of Ontario, 1980, is amended by striking out “Provisional Judicial” in the fifteenth line and inserting in lieu thereof “Territorial”.

48.—(1) Sections 2, 4 and 5 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Sections 6 and 7 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, are repealed.

(3) Sections 8 and 9 of the said Act are repealed.

(4) Section 11 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 10, section 1, is repealed.

(5) Section 12 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(6) Sections 14 and 15 of the said Act are repealed.

(7) Section 17 of the said Act is repealed and the following substituted therefor:

Depository
for the wills
of living
persons

17. The office of the local registrar of the Ontario Court (General Division) is a depository for all wills of living persons given there for safekeeping, and the local registrar shall receive and keep those wills under such regulations as are prescribed by the rules of court.

(8) Section 18 of the said Act is amended by striking out “regulations as are prescribed by the surrogate court rules” in the fourth and fifth lines and inserting in lieu thereof “conditions as are prescribed by the rules of court”.

(9) Sections 21, 22 and 23 of the said Act are repealed.

(10) Section 26 of the said Act is repealed and the following substituted therefor:

26.—(1) An application for a grant of probate or letters of administration shall be made to the Ontario Court (General Division) and shall be filed in the office for the county or district in which the testator or intestate had at the time of death a fixed place of abode.

Grant of probate or administration, jurisdiction

(2) If the testator or intestate had no fixed place of abode in Ontario or resided out of Ontario at the time of death, the application shall be filed in the office for the county or district in which the testator or intestate had property at the time of death.

Where decedent had no abode in Ontario

(3) In other cases the application for probate or letters of administration may be filed in any office.

When application may be filed in any office

(11) Sections 27, 28 and 29 of the said Act are repealed.

(12) Subsection 30 (1) of the said Act is repealed and the following substituted therefor:

(1) The court may cause any question of fact arising in any proceeding to be tried by a jury.

Trial of questions of fact by a jury

(13) Section 32 of the said Act is repealed.

(14) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

(1) Any party or person taking part in a proceeding under this Act may appeal to the Divisional Court from an order, determination or judgment of the Ontario Court (General Division) if the value of the property affected by such order, determination or judgment exceeds \$200.

Right of appeal

(15) Subsections 33 (4), (5) and (6) of the said Act are repealed.

(16) Section 34 of the said Act is repealed.

(17) Section 44 of the said Act is amended by striking out “surrogate court” in the sixth line and inserting in lieu thereof “office of the Ontario Court (General Division)”.

(18) Section 45 of the said Act is repealed and the following substituted therefor:

Where
application
filed in more
than one
office

45. If it appears by the certificate of the Estate Registrar for Ontario that application for probate or administration has been filed in two or more court offices, the proceedings shall be stayed until, on motion, a judge of the Ontario Court (General Division) determines where the application will proceed.

(19) Section 60 of the said Act is amended by striking out “judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “Accountant of the Ontario Court”.

(20) Subsection 74 (1) of the said Act is repealed.

(21) Subsection 74 (3) of the said Act is repealed and the following substituted therefor:

Powers of
judge on
passing
accounts

(3) The judge, on passing the accounts of an executor, administrator or trustee under a will of which the trustee is an executor, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and its administration and disbursement.

(22) Subsection 74 (6) of the said Act is repealed.

(23) Section 78 of the said Act is repealed.

(24) Section 80 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(25) The title to the *Surrogate Courts Act* is repealed and the following substituted therefor:

ESTATES ACT

49.—(1) Section 1 of the *Territorial Division Act*, being chapter 497 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 57, section 4, is further amended by striking out “5, 5a, 6, 7 and 8 for municipal and judicial purposes such counties, and for judicial

purposes such districts and metropolitan and regional areas, are respectively” in the third, fourth, fifth and sixth lines and inserting in lieu thereof “and 5, for municipal purposes such counties are”.

(2) Paragraph 2 of section 1 of the said Act is amended by striking out the following sentences at the end thereof:

“The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

“The Indian Reserve at Chief’s Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel”.

(3) Paragraph 42 of the said section 1 is amended by striking out “The Territorial District of Algoma forms the Provisional Judicial District of Algoma” in the seventh and eighth lines from the end thereof.

(4) Paragraph 43 of the said section 1 is amended by striking out “The Territorial District of Cochrane forms the Provisional Judicial District of Cochrane” at the end thereof.

(5) Paragraph 44 of the said section 1 is amended by striking out “The Territorial District of Kenora forms the Provisional Judicial District of Kenora” at the end thereof.

(6) Paragraph 45 of the said section 1 is amended by striking out “The Territorial District of Manitoulin forms the Provisional Judicial District of Manitoulin” at the end thereof.

(7) Paragraph 46 of the said section 1 is amended by striking out “The District Municipality of Muskoka forms the Provisional Judicial District of Muskoka” at the end thereof.

(8) Paragraph 47 of the said section 1 is amended by striking out “The Territorial District of Nipissing forms the Provisional Judicial District of Nipissing” at the end thereof.

(9) Paragraph 48 of the said section 1 is amended by striking out “The Territorial District of Parry Sound forms the Provisional Judicial District of Parry Sound” at the end thereof.

(10) Paragraph 49 of the said section 1 is amended by striking out “The Territorial District of Rainy River forms the Provisional Judicial District of Rainy River” at the end thereof.

(11) Paragraph 50 of the said section 1, as amended by the Statutes of Ontario, 1986, chapter 52, section 1, is further amended by striking out "The Territorial District of Sudbury forms the Provisional Judicial District of Sudbury" at the end thereof.

(12) Paragraph 51 of the said section 1 is amended by striking out "The Territorial District of Thunder Bay forms the Provisional Judicial District of Thunder Bay" at the end thereof.

(13) Paragraph 52 of the said section 1 is amended by striking out "The Territorial District of Timiskaming forms the Provisional Judicial District of Timiskaming" at the end thereof.

(14) Subsection 4 (1) of the said Act is amended by striking out "judicial" in the first line.

(15) Subsection 4 (2) of the said Act is amended by striking out "courts" in the fourth line.

(16) Section 5 of the said Act is repealed and the following substituted therefor:

Cities and
towns

5. For municipal purposes, cities, towns and other municipalities withdrawn from the jurisdiction of a county do not form part of the counties in which they are respectively situate.

(17) Section 5a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 57, section 4, is repealed.

(18) Sections 6, 7 and 8 of the said Act are repealed.

(19) Clause 15 (b) of the said Act is amended by striking out "or provisional judicial district" in the first and second lines.

50. Subsection 13 (2) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the local registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

51. Subsection 27 (1) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is amended by striking out "The Registrar of the Supreme Court and every local registrar of the Supreme Court" in the first and second

lines and inserting in lieu thereof “Every local registrar of the Ontario Court (General Division)”.

52.—(1) Subsection 10 (1) of the *Woodmen’s Lien for Wages Act*, being chapter 537 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the third line and in the sixth line and inserting in lieu thereof in each instance “the monetary jurisdiction of the Small Claims Court”.

(2) Section 16 of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

(3) Subsection 17 (1) of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

53. Section 116 of the *Workers’ Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the ninth line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

54. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

55. The short title of this Act is the *Court Reform Statute Law Amendment Act, 1989*. Short title

Bill 3

(Chapter 56
Statutes of Ontario, 1989)

An Act to amend certain Statutes of Ontario Consequent upon Amendments to the Courts of Justice Act, 1984

The Hon. I. Scott
Attorney General



<i>1st Reading</i>	May 1st, 1989
<i>2nd Reading</i>	June 14th, 1989
<i>3rd Reading</i>	November 14th, 1989
<i>Royal Assent</i>	November 15th, 1989

Bill 3

1989

**An Act to amend certain Statutes of Ontario
Consequent upon Amendments to the
Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 23 (8) of the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$200 or less” in the third line and inserting in lieu thereof “within the monetary jurisdiction of the Small Claims Court”.

(2) Subsection 29 (3) of the said Act is amended by striking out “the judge of the surrogate court of the Judicial District of York” in the fourth and fifth lines and inserting in lieu thereof “a judge of the Ontario Court (General Division) sitting in The Municipality of Metropolitan Toronto”.

2. Subsection 63 (1) of the *Child and Family Services Act*, 1984, being chapter 55, is repealed and the following substituted therefor:

(1) The Minister may appoint a judge of the Ontario Court of Justice or the Unified Family Court to investigate a matter relating to a child in a society's care or the proper administration of this Part, and a judge who is appointed shall conduct the investigation and make a written report to the Minister.

Investigation
by judge

3.—(1) Section 3 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District” in the second and third lines and inserting in lieu thereof “The Regional Municipality”.

(2) Section 73 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

Order made
under
R.S.O. 1980,
c. 292

73.—(1) An application to vary an order made by a surrogate court under the *Minors Act* shall be made to the Ontario Court (General Division).

Idem
1984, c. 11

(2) Section 160 of the *Courts of Justice Act, 1984* does not apply to subsection (1) to deem the reference to a surrogate court to be a reference to the Ontario Court (General Division).

4.—(1) Section 51 of the *Construction Lien Act, 1983*, being chapter 6, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(2) Section 52 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(3) Section 53 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Court to
dispose
completely of
action

53. The court, whether the action is being tried by a judge or by a master on a reference,

(a) shall try the action, including any set-off, cross-claim, counterclaim and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and liabilities of the persons appearing before it or upon whom notice of trial has been served; and

(b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

(4) Section 54 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Where
exclusive
jurisdiction
not acquired

54. A judge or master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of appointing the time and place for the trial of the action or reference, or for holding a settlement meeting.

(5) Subsection 60 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(1) On motion made after the delivery of all statements of defence, or the statements of defence to all crossclaims, counterclaims or third party claims, if any, or the time for their delivery has expired, a judge may refer the whole action for trial to a master assigned to the county or district in which the premises or part of the premises are situate. Reference to master

(1a) A master shall not hear or dispose of a motion made under subsection (1). Idem

(6) Subsection 60 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(2) At the trial, a judge may direct a reference to a master assigned to the county or district in which the premises or part of the premises are situate. Idem

(2a) A master to whom a reference has been directed has all the jurisdiction, powers and authority of the court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court. Powers of master on reference

(7) Subsection 60 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(3) Where under subsection (1) the action has been referred to a master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge of the court that directed the reference to set aside the judgment directing the reference. Application to set aside order of reference

(8) Clause 64 (1) (b) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(b) in a report in the prescribed form, where the trial is conducted by a master on a reference.

(9) Subsection 64 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(3) The report of a master shall be deemed to be confirmed at the expiration of the fifteen-day period next following the date that the notice of filing was given, unless notice of a When report deemed confirmed

motion to oppose confirmation of the report is served within that time.

5.—(1) Subsection 48 (3) of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the fifth and sixth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

(2) Section 49 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the thirteenth and fourteenth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

6. Subsection 6 (1) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Chief Judge of the County and District Courts” in the second line and inserting in lieu thereof “a judge of the Ontario Court (General Division) designated by the Chief Justice of the Ontario Court”.

7.—(1) Subsection 78 (2) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 80 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

8.—(1) Clause 3 (2) (a) of the *County of Haliburton Act*, 1982, being chapter 57, is repealed.

(2) Subsection 4 (4) of the said Act is repealed.

9.—(1) Section 3 of the *Creditors' Relief Act*, being chapter 103 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 1, section 1, is amended by adding thereto the following subsection:

(2) Subsection (1) does not affect the priority of a creditor by execution or garnishment issued by the Small Claims Court. Exception

(2) Subsection 22 (2) of the said Act is repealed and the following substituted therefor:

(2) Such costs shall be ascertained in accordance with the tariffs of costs under the rules of court applicable to, Scale of costs

- (a) the Small Claims Court, if the claim is within the monetary jurisdiction of that court; or
- (b) the Ontario Court (General Division), in any other case.

10.—(1) Subsection 3 (1) of the *Crown Attorneys Act*, being chapter 107 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District of York” in the third and fourth lines and in the sixth line and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(2) Subsection 3 (2) of the said Act is amended by striking out “the Judicial District of York” wherever it occurs and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(3) Subclause 12 (b) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 170, is repealed.

11.—(1) Subsection 4 (3) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 112 (1) of the said Act is amended by striking out “district court within the District Area or a judge of the county court or district court of a county or district adjoining the District Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

12.—(1) Section 69 of the *Election Act, 1984*, being chapter 54, is repealed and the following substituted therefor:

69. In this section and in sections 70 to 80, unless otherwise stated, “judge” means a judge of the Ontario Court (Provincial Division). Definition

(2) Subsection 70 (2) of the said Act is amended by striking out “the clerk of the county or district court” in the third line

and inserting in lieu thereof “a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate”.

(3) Subsection 72 (2) of the said Act is amended by striking out “of the county or district court” in the first and second lines.

(4) Section 78 of the said Act is amended by striking out “court of the county or judicial district” in the fourth and fifth lines and inserting in lieu thereof “Ontario Court (Provincial Division)”.

(5) Subsection 79 (3) of the said Act is amended by striking out “Registrar of the Supreme Court” in the fifth and sixth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate” and by striking out “Registrar” in the eighth line and inserting in lieu thereof “local registrar”.

(6) Subsections 79 (4) and (5) of the said Act are amended by striking out “Registrar” wherever it occurs and inserting in lieu thereof in each instance “local registrar”.

(7) Subsection 85 (5) of the said Act is amended by striking out “Registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate” and by striking out “Registrar” in the fourth line and inserting in lieu thereof “local registrar”.

(8) Subsections 98 (5) and (6) of the said Act are repealed and the following substituted therefor:

Local
registrar to
notify
C.E.O.

(5) When an action is commenced by a person other than the Chief Election Officer, the local registrar of the Ontario Court (General Division) shall notify the Chief Election Officer by registered mail.

(9) Subsection 103 (3) of the said Act is amended by striking out “Registrar of the Supreme Court” in the second line and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(10) Subsection 105 (1) of the said Act is amended by striking out “Registrar of the Supreme Court” in the sixth and seventh lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(11) Subsection 106 (7) of the said Act is amended by striking out “Registrar of the Supreme Court” in the first line and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(12) Subsection 107 (2) of the said Act is amended by striking out “Registrar” in the second line and inserting in lieu thereof “local registrar”.

(13) Subsection 109 (2) of the said Act is repealed and the following substituted therefor:

(2) The appeal shall be heard as speedily as practicable.

Appeal to be
heard
speedily

13. Section 49 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is amended by striking out “surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “court that granted it or under the seal of the Ontario Court (General Division)”.

14. Subsections 24 (2) and (3) of the *Fraudulent Debtors Arrest Act*, being chapter 177 of the Revised Statutes of Ontario, 1980, are repealed.

15.—(1) Subsection 14 (6) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the third and fourth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 14 (10) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

16. Subsection 14 (2) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or with the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

17.—(1) Clause 20 (3) (a) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the court” in the fifth, sixth and seventh

lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 21 (3) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(3) Subsection 21 (6) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the court, as the case may be” in the first, second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

18. Subsection 19 (2) of the *Industrial Standards Act*, being chapter 216 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the fifth line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

19. Section 61 of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Master of the Supreme Court” in the fourth line and inserting in lieu thereof “a referee in a proceeding in the Ontario Court (General Division)”.

20.—(1) Clause 27 (i) of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (i) where the time limited for a proceeding or for the doing of any thing in a court office, a land registry office or a sheriff's office expires or falls on a day that is prescribed as a holiday for that office, the time so limited extends to and the thing may be done on the day next following that is not a holiday.

(2) Paragraphs 9 and 35 of section 30 of the said Act are repealed.

21.—(1) Subsection 5 (3) of the *Juries Act*, being chapter 226 of the Revised Statutes of Ontario, 1980, is amended by adding “and” at the end of clause (a) and by striking out clauses (b) and (c) and inserting in lieu thereof:

- (b) to the local registrar of the Ontario Court (General Division), a copy of the determination for the number of jurors under clause (1) (a).

(2) Subsection 12 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed and the following substituted therefor:

(1) A judge of the Ontario Court (General Division) may issue precepts in the form prescribed by the regulations to the sheriff for the return of such number of jurors as the sheriff has determined as the number to be drafted and returned or such greater or lesser number as in his or her opinion is required. Issuance of precepts

(3) Subsection 12 (1a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed.

(4) Subsection 12 (2) of the said Act is repealed.

(5) Subsection 39 (2) of the said Act is amended by striking out "Registrar or the local registrar of the Supreme Court, as the case may be" in the third and fourth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

22.—(1) Clauses 9 (1) (a), (b) and (c) of the *Justices of the Peace Act, 1989*, being chapter 46, are repealed and the following substituted therefor:

- (a) the Chief Judge of the Ontario Court (Provincial Division) who shall preside over the Review Council;
- (b) the Co-ordinator;
- (c) the regional senior judge of the Ontario Court (Provincial Division) in the region in which the matter being considered by the Council arises.

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- a) le juge en chef de la Cour de l'Ontario (Division provinciale), qui préside le Conseil;
- b) le coordonnateur;
- c) le juge principal régional de la Cour de l'Ontario (Division provinciale) de la région où se présente l'affaire dont traite le Conseil.

(2) Subsection 14 (1) of the said Act is repealed and the following substituted therefor:

Co-ordinator
to supervise
justices,
assign duties

(1) The Co-ordinator has general supervision and direction over sittings of justices of the peace and the assignment of their duties, subject to the direction of the Chief Judge of the Ontario Court (Provincial Division).

Surveillance,
etc., par le
coordon-
nateur

(1) Le coordonnateur est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions, sous réserve de la direction du juge en chef de la Cour de l'Ontario (Division provinciale).

(3) Subsection 14 (6) of the said Act is amended by striking out "a" in the fourth line of the English version and inserting in lieu thereof "the" and by striking out "d'un" in the fifth line of the French version and inserting in lieu thereof "du".

23. Subsection 12 (2) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the Local Registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

24.—(1) Sections 69 and 70 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 74 of the said Act is repealed and the following substituted therefor:

Scale of costs

74. The costs of the proceeding before the judge shall be on the Small Claims Court scale if the amount claimed by the landlord does not exceed the monetary jurisdiction of the Small Claims Court.

25. Section 49 of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court" in the fourth line and inserting in lieu thereof "local registrar of the Ontario Court (General Division) at Toronto".

26.—(1) Subsection 17 (3) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Transmission
of copy of
disclaimer

(3) The Clerk of the Assembly shall, on receiving a disclaimer, forthwith send a copy of it to the local registrar of the Ontario Court (General Division) for the county or district in

which is situate the electoral district or any part of the electoral district for which the member so disclaiming was elected.

(2) Subsection 47 (2) of the said Act is amended by striking out “the Judicial District of York” in the second and third lines and inserting in lieu thereof “The Municipality of Metropolitan Toronto”.

27. Subsection 13 (4) of the *Libel and Slander Act*, being chapter 237 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(4) An order made under this section is final and is not subject to appeal.

Order of
judge
respecting
security final

28.—(1) Subsection 10 (1) of the *Master and Servant Act*, being chapter 257 of the Revised Statutes of Ontario, 1980, is amended by striking out “small claims court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the small claims court held in the division in which the party or parties complained against or one of them carried on business” in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof “Ontario Court (General Division)”.

(2) Section 11 of the said Act is repealed.

29. Subsection 102 (1) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out “county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate” in the second, third, fourth, fifth and sixth lines and inserting in lieu thereof “Ontario Court (General Division)”.

30.—(1) Subsection 87 (1) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court of” in the ninth line and inserting in lieu thereof “Ontario Court (Provincial Division) sitting in”.

(2) Subsection 87 (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “the local registrar of the District Court” in the third line and inserting in lieu thereof “a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate”.

(3) Subsection 88c (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court” in the fourth line and inserting in lieu thereof “Ontario Court (Provincial Division)”.

(4) Subsection 88c (2) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court” in the fourth line and inserting in lieu thereof “Ontario Court (Provincial Division)”.

(5) Section 88j of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted therefor:

Appeal from
decision of
provincial
judge or
recount
officer

88j.—(1) Any party may appeal to the Ontario Court (General Division) from the decision of the provincial judge on the application or of the recount officer on the recount, as the case may be, by giving written notice not more than five days following the completion of the hearing or the recount to the other parties concerned and to the provincial judge or the recount officer and the notice may limit the appeal to specified disputed ballots.

Service of
notice

(2) The notice shall be served upon the other parties personally or upon the solicitor who acted for the party or in the manner that a judge of the Ontario Court (General Division) may direct.

Documents
to be
forwarded

(3) The provincial judge or recount officer shall forward to the local registrar of the Ontario Court (General Division) by registered mail,

- (a) the notice of appeal;
- (b) a certificate showing the findings of the provincial judge or recount officer on the ballots or statements in dispute;
- (c) if the appeal is limited to specified disputed ballots, the ballots or statements of the vote that are the subject of the appeal in the envelopes described in subsection 88c (7) and section 88d; and
- (d) if the appeal is not limited, all of the ballots in the envelopes referred to in clause 88c (8) (b) or 88e (1) (b).

Certificate to
be issued
after appeal

(4) The provincial judge or recount officer shall await the result of the appeal before preparing the certificate under subsection 88c (8) or 88e (2).

(5) The provincial judge or recount officer shall, upon request, allow each party to make a copy of the order or certificate, as the case may be, before it is forwarded to the local registrar.

Copy of
certificate

(6) On receipt of the ballots, notice and statement, the local registrar shall immediately fix a time for hearing the appeal and shall notify the parties or their solicitors of the time so fixed.

Appointment
for hearing

(7) One judge of the Ontario Court (General Division) shall determine the objection pertaining to, or count again, the ballots or such of them as are the subject of appeal, or review the re-addition, as the case may be, and shall immediately certify in writing the decision of the court to the provincial judge or to the recount officer.

Determina-
tion by
General
Division

(8) The provincial judge or recount officer, in compliance with the decision of the Ontario Court (General Division), shall certify the result without delay.

Certificate to
reflect
decision

31. Subsection 252 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “county court of the Judicial District of York, or a judge of the county court of a judicial district adjoining the Judicial District of York” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

32. Subsection 121 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out “county court within the County or a judge of the county court of a county or judicial district adjoining the County” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

33.—(1) Subsection 11 (9) of the *Provincial Land Tax Act*, being chapter 399 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out “Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court” in the fourth, fifth and sixth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 11 (11) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

34.—(1) Clause 1 (1) (j) of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is amended by striking out “court” in the first line and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(2) Subsection 31 (2) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the third and fourth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(3) Subsection 31 (3) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the fourth and fifth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(4) The said Act is amended by adding thereto the following section:

Contempt

90a.—(1) Except as otherwise provided by an Act, every person who commits contempt in the face of a justice of the peace presiding over the Ontario Court (Provincial Division) in a proceeding under this Act is on conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement to
offender

(2) Before a proceeding is taken for contempt under subsection (1), the justice of the peace shall inform the offender of the conduct complained of and the nature of the contempt and inform him or her of the right to show cause why he or she should not be punished.

Show cause

(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he or she should not be punished.

Adjournment
for adjudi-
cation

(4) Except where, in the opinion of the justice of the peace, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the justice of the peace shall adjourn the contempt proceeding to another day.

Adjudication
by judge

(5) A contempt proceeding that is adjourned to another day under subsection (4) shall be heard and determined by the court presided over by a provincial judge.

Arrest for
immediate
adjudication

(6) Where the justice of the peace proceeds to deal with a contempt immediately and without adjournment under subsection (4), the justice of the peace may order the offender

arrested and detained in the courtroom for the purpose of the hearing and determination.

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he or she be barred from acting as agent in the proceeding in addition to any other punishment to which he or she is liable. Barring agent
in contempt

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in a proceeding commenced by certificate under Part I of this Act. Appeals

(9) This Act applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section. Enforcement

(5) Section 91m of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 80, section 1, is amended by striking out “provincial court (criminal division)” in the sixth line and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge”.

(6) Clause 99 (2) (a) of the said Act is amended by striking out “provincial court (criminal division) of” in the second and third lines and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge sitting in”.

(7) Subsection 118 (1) of the said Act is amended by striking out “provincial court (criminal division) of” in the fifth line and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge sitting in”.

(8) Subsection 122 (1) of the said Act is repealed and the following substituted therefor:

(1) An appeal lies from the judgment of the Ontario Court (Provincial Division) in an appeal under section 118 to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone. Appeal to
Court of
Appeal

(9) Section 123 of the said Act is repealed.

(10) Subsection 142 (1) of the said Act is amended by striking out “in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated” in the thirteenth, fourteenth and fifteenth lines.

35.—(1) Subsections 5 (3) and (4) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 133 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

36.—(1) Subsections 5 (3), (4) and (6) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 116 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

37.—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 126 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

38.—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 138 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

39.—(1) Subsections 4 (3) and (4) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 165 (1) of the said Act is amended by striking out “either of the county courts within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “the Ontario Court (General Division)”.

40.—(1) Subsection 2 (3) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 168 (1) of the said Act is amended by striking out “county court of the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

41.—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 121 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

42.—(1) Subsection 4 (3) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 108 (1) of the said Act is amended by striking out “district court within the Regional Area or a judge of the district court of a district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

43.—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 156 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

44.—(1) Subsection 4 (3) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 157 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

45.—(1) Subsection 23 (2) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 25 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

46. The *Sheriffs Act*, being chapter 470 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 11, section 212 and 1989, chapter 24, section 2, is repealed.

47. Subsection 35 (1) of the *Statute Labour Act*, being chapter 482 of the Revised Statutes of Ontario, 1980, is amended by striking out “Provisional Judicial” in the fifteenth line and inserting in lieu thereof “Territorial”.

48.—(1) Sections 2, 4 and 5 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Sections 6 and 7 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, are repealed.

(3) Sections 8 and 9 of the said Act are repealed.

(4) Section 11 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 10, section 1, is repealed.

(5) Section 12 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(6) Sections 14 and 15 of the said Act are repealed.

(7) Section 17 of the said Act is repealed and the following substituted therefor:

Depository
for the wills
of living
persons

17. The office of the local registrar of the Ontario Court (General Division) is a depository for all wills of living persons given there for safekeeping, and the local registrar shall receive and keep those wills under such regulations as are prescribed by the rules of court.

(8) Section 18 of the said Act is amended by striking out “regulations as are prescribed by the surrogate court rules” in the fourth and fifth lines and inserting in lieu thereof “conditions as are prescribed by the rules of court”.

(9) Sections 21, 22 and 23 of the said Act are repealed.

(10) Section 26 of the said Act is repealed and the following substituted therefor:

26.—(1) An application for a grant of probate or letters of administration shall be made to the Ontario Court (General Division) and shall be filed in the office for the county or district in which the testator or intestate had at the time of death a fixed place of abode.

Grant of probate or administration, jurisdiction

(2) If the testator or intestate had no fixed place of abode in Ontario or resided out of Ontario at the time of death, the application shall be filed in the office for the county or district in which the testator or intestate had property at the time of death.

Where decedent had no abode in Ontario

(3) In other cases the application for probate or letters of administration may be filed in any office.

When application may be filed in any office

(11) Sections 27, 28 and 29 of the said Act are repealed.

(12) Subsection 30 (1) of the said Act is repealed and the following substituted therefor:

(1) The court may cause any question of fact arising in any proceeding to be tried by a jury.

Trial of questions of fact by a jury

(13) Section 32 of the said Act is repealed.

(14) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

(1) Any party or person taking part in a proceeding under this Act may appeal to the Divisional Court from an order, determination or judgment of the Ontario Court (General Division) if the value of the property affected by such order, determination or judgment exceeds \$200.

Right of appeal

(15) Subsections 33 (4), (5) and (6) of the said Act are repealed.

(16) Section 34 of the said Act is repealed.

(17) Section 44 of the said Act is amended by striking out “surrogate court” in the sixth line and inserting in lieu thereof “office of the Ontario Court (General Division)”.

(18) Section 45 of the said Act is repealed and the following substituted therefor:

Where
application
filed in more
than one
office

45. If it appears by the certificate of the Estate Registrar for Ontario that application for probate or administration has been filed in two or more court offices, the proceedings shall be stayed until, on motion, a judge of the Ontario Court (General Division) determines where the application will proceed.

(19) Section 60 of the said Act is amended by striking out “judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “Accountant of the Ontario Court”.

(20) Subsection 74 (1) of the said Act is repealed.

(21) Subsection 74 (3) of the said Act is repealed and the following substituted therefor:

Powers of
judge on
passing
accounts

(3) The judge, on passing the accounts of an executor, administrator or trustee under a will of which the trustee is an executor, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and its administration and disbursement.

(22) Subsection 74 (6) of the said Act is repealed.

(23) Section 78 of the said Act is repealed.

(24) Section 80 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(25) The title to the *Surrogate Courts Act* is repealed and the following substituted therefor:

ESTATES ACT

49.—(1) Section 1 of the *Territorial Division Act*, being chapter 497 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 57, section 4, is further amended by striking out “5, 5a, 6, 7 and 8 for municipal and judicial purposes such counties, and for judicial

purposes such districts and metropolitan and regional areas, are respectively” in the third, fourth, fifth and sixth lines and inserting in lieu thereof “and 5, for municipal purposes such counties are”.

(2) Paragraph 2 of section 1 of the said Act is amended by striking out the following sentences at the end thereof:

“The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

“The Indian Reserve at Chief’s Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel”.

(3) Paragraph 42 of the said section 1 is amended by striking out “The Territorial District of Algoma forms the Provisional Judicial District of Algoma” in the seventh and eighth lines from the end thereof.

(4) Paragraph 43 of the said section 1 is amended by striking out “The Territorial District of Cochrane forms the Provisional Judicial District of Cochrane” at the end thereof.

(5) Paragraph 44 of the said section 1 is amended by striking out “The Territorial District of Kenora forms the Provisional Judicial District of Kenora” at the end thereof.

(6) Paragraph 45 of the said section 1 is amended by striking out “The Territorial District of Manitoulin forms the Provisional Judicial District of Manitoulin” at the end thereof.

(7) Paragraph 46 of the said section 1 is amended by striking out “The District Municipality of Muskoka forms the Provisional Judicial District of Muskoka” at the end thereof.

(8) Paragraph 47 of the said section 1 is amended by striking out “The Territorial District of Nipissing forms the Provisional Judicial District of Nipissing” at the end thereof.

(9) Paragraph 48 of the said section 1 is amended by striking out “The Territorial District of Parry Sound forms the Provisional Judicial District of Parry Sound” at the end thereof.

(10) Paragraph 49 of the said section 1 is amended by striking out “The Territorial District of Rainy River forms the Provisional Judicial District of Rainy River” at the end thereof.

(11) Paragraph 50 of the said section 1, as amended by the Statutes of Ontario, 1986, chapter 52, section 1, is further amended by striking out “The Territorial District of Sudbury forms the Provisional Judicial District of Sudbury” at the end thereof.

(12) Paragraph 51 of the said section 1 is amended by striking out “The Territorial District of Thunder Bay forms the Provisional Judicial District of Thunder Bay” at the end thereof.

(13) Paragraph 52 of the said section 1 is amended by striking out “The Territorial District of Timiskaming forms the Provisional Judicial District of Timiskaming” at the end thereof.

(14) Subsection 4 (1) of the said Act is amended by striking out “judicial” in the first line.

(15) Subsection 4 (2) of the said Act is amended by striking out “courts” in the fourth line.

(16) Section 5 of the said Act is repealed and the following substituted therefor:

Cities and
towns

5. For municipal purposes, cities, towns and other municipalities withdrawn from the jurisdiction of a county do not form part of the counties in which they are respectively situate.

(17) Section 5a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 57, section 4, is repealed.

(18) Sections 6, 7 and 8 of the said Act are repealed.

(19) Clause 15 (b) of the said Act is amended by striking out “or provisional judicial district” in the first and second lines.

50. Subsection 13 (2) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or with the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

51. Subsection 27 (1) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is amended by striking out “The Registrar of the Supreme Court and every local registrar of the Supreme Court” in the first and second

lines and inserting in lieu thereof “Every local registrar of the Ontario Court (General Division)”.

52.—(1) Subsection 10 (1) of the *Woodmen’s Lien for Wages Act*, being chapter 537 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the third line and in the sixth line and inserting in lieu thereof in each instance “the monetary jurisdiction of the Small Claims Court”.

(2) Section 16 of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

(3) Subsection 17 (1) of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

53. Section 116 of the *Workers’ Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the ninth line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

54. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

55. The short title of this Act is the *Court Reform Statute Law Amendment Act, 1989*. Short title

Bill 4

An Act to amend the Metropolitan Toronto Police Force Complaints Act, 1984

The Hon. I. Scott
Attorney General



1st Reading November 4th, 1987
2nd Reading
3rd Reading
Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTES

The purpose of the Bill is to permit the extension of the police complaints procedure to municipalities other than Metropolitan Toronto on the request of the municipality.

SECTIONS 1 and 2. The amendments to the definitions adjust the terminology so that it is not confined to Metropolitan Toronto but can apply to any municipality to which the Act applies. The Commissioner's title is changed from "Public Complaints Commissioner" to "Police Complaints Commissioner".

SECTION 3. The new section authorizes municipalities to adopt by-laws requesting the Lieutenant Governor in Council to designate them by regulation (under clause 31 (ca) of the Act, as enacted by section 16 of the Bill). A regulation may only be made where such a by-law is passed.

SECTIONS 4 to 7. The amendments make no change in substance except to refer to all designated municipalities.

SECTION 8. Under existing section 11 of the Act the report of the Bureau's investigation is given to certain persons. The amendment would provide that the result of a further investigation by the chief of police on the request of the Commissioner be given to the same persons.

SECTION 9. Existing section 14 authorizes the chief of police to delegate to an officer of the rank of inspector or higher. The amendment permits the delegation to be to a senior officer where the police force does not have the rank of inspector.

SECTION 10. The amendment removes any doubt that the appeal from the decision of a chief of police on a disciplinary hearing is to be taken under the *Metropolitan Toronto Police Force Complaints Act, 1984* and not the *Police Act*.

SECTIONS 11 to 15. See explanatory note for sections 4 to 7 (except for subsection 13 (1)).

Clause 23 (2) (b) of the Act makes the Attorney General a party to hearings before a board of inquiry, except when the hearing is in respect of a penalty imposed on an officer. The amendment in subsection 13 (1) ensures that the Attorney General is not excluded from participating where the officer's hearing is combined with the complainant's hearing.

SECTION 16. The amendment authorizes a municipality to be designated by regulation where it has passed a by-law requesting the designation.

SECTION 17. The short title of the Act is amended to remove specific reference to the Metropolitan Police Force.

Bill 4

1989

An Act to amend the Metropolitan Toronto Police Force Complaints Act, 1984

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clauses 1 (a) and (b) of the *Metropolitan Toronto Police Force Complaints Act, 1984*, being chapter 63, are repealed and the following substituted therefor:

(a) “Bureau” means a Public Complaints Investigation Bureau established under section 5.

(2) Clause 1 (c) of the said Act is amended by striking out “Public” in the first line and inserting in lieu thereof “Police”.

(3) Section 1 of the said Act is amended by adding thereto the following clause:

(ea) “designated municipality” means The Municipality of Metropolitan Toronto and the municipalities that are designated by a regulation made under clause 31 (ca).

(4) Clause 1 (i) of the said Act is repealed and the following substituted therefor:

(i) “police association” means the association as defined in the *Police Act* for the police force of a designated municipality.

R.S.O. 1980,
c. 381

(5) Section 1 of the said Act is further amended by adding thereto the following subsection:

(2) A reference in this Act to a police officer, chief of police, police force, Bureau, board of inquiry or panel for boards of inquiry means the one appointed or established for the designated municipality that the subject officer serves.

References to
local bodies

2. Section 2 of the said Act is amended by striking out “Metropolitan Police Force” in the third line and inserting in lieu thereof “police force of a designated municipality”.

3. The said Act is amended by adding thereto the following section:

By-laws to
request
application
of Act
R.S.O. 1980,
c. 381

2a.—(1) The council of a municipality that maintains a police force other than by agreement under section 64 of the *Police Act* may, by by-law, request the Lieutenant Governor in Council to designate the municipality as one to which this Act applies.

Idem

(2) The council of a municipality that maintains a police force by agreement under section 63 of the *Police Act* may pass a by-law under subsection (1) only if the municipality providing the services is a designated municipality.

4.—(1) Subsection 3 (1) of the said Act is amended by striking out “Public” in the second line and inserting in lieu thereof “Police”.

(2) Section 3 of the said Act is amended by adding thereto the following subsections:

Local offices

(6a) The Commissioner shall establish a local office in each designated municipality.

Communi-
cation to
Commis-
sioner by
local office

(6b) Any matter or thing that is required or permitted by this Act to be given to or served upon the Commissioner shall be given or served at the local office of the Commissioner.

5. Section 4 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 31, section 1, is repealed and the following substituted therefor:

Panels for
boards of
inquiry

4.—(1) The Lieutenant Governor in Council shall appoint a panel of persons for each designated municipality to act as members of boards of inquiry.

Recommen-
dations for
appointment

(2) One-third of the members of the panel shall be persons who are members of the Law Society of Upper Canada who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Idem

(3) One-third of the members of the panel shall be persons, other than police officers, who are jointly recommended for appointment by the board of commissioners of police of the designated municipality, or, where there is no board, the council, and by the police association, if any.

(4) If the joint recommendations referred to in subsection (3) are not submitted to the Attorney General in writing within the time that the Attorney General may specify, one-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Failure to make joint recommendations

(5) Before making the recommendation referred to in subsection (4), the Attorney General and Solicitor General shall consider any recommendations made by the board of commissioners of police or council alone or the police association alone.

Individual recommendations to be considered

(6) One-third of the members of the panel shall be persons recommended for appointment by the council of the designated municipality.

Recommendations for appointment

(7) If the recommendations referred to in subsection (6) are not submitted to the Attorney General in writing within the time that the Attorney General may specify, one-third of the members of the panel shall be persons, other than members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Failure to make recommendations

(8) Appointments to the panel shall be for a term of two years and a person who is appointed may be reappointed for a further term or terms not exceeding, in each instance, two years.

Term

(9) A member of the panel whose term expires without reappointment continues in office for the purpose of completing the work of a board of inquiry to which the member was assigned before the expiration of the term.

Continuance in office for uncompleted assignments

(10) Notwithstanding subsection 34 (1), the members of the Police Complaints Board, except the chairman, constituted under the *Metropolitan Police Force Complaints Project Act, 1981* shall act as members of boards of inquiry under this Act until such time as the panel referred to in subsection (1) is appointed and members of the Police Complaints Board appointed from the groups set out in subsections 4 (4), (5) and (6), respectively, of the *Metropolitan Police Force Complaints Project Act, 1981* shall be deemed to be recommended under subsections (2), (3) and (6) of this section, respectively.

Members of Police Complaints Board under 1981, c. 43

(11) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

Remuneration

6. Subsection 5 (1) of the said Act is amended by striking out “Metropolitan Police Force” in the second and third lines and inserting in lieu thereof “police force”.

7. Subsection 6 (1) of the said Act is amended by striking out “Metropolitan Toronto” in the second line and inserting in lieu thereof “the designated municipality”.

8. Subsection 11 (6) of the said Act is amended by adding at the end thereof “the chief of police, the complainant and the subject officer”.

9. Subsection 14 (7) of the said Act is amended by inserting after “higher” in the second line “or, if none, a senior officer who is not a member of the police association”.

10. Section 16 of the said Act is amended by striking out “the officer may appeal” in the third line and inserting in lieu thereof “any appeal therefrom shall be taken”.

11. Section 21 of the said Act is repealed and the following substituted therefor:

Report

21.—(1) Where, after making a review, the Commissioner is of the opinion that a police practice or procedure should be altered, the Commissioner shall report the opinion and any recommendations to the board of commissioners of police of the designated municipality or, where there is no board, the council, to the chief of police and to the police association, if any.

Idem

(2) Where, as a result of any matter dealt with under this Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, the Commissioner shall report the opinion and any recommendations to the board of commissioners of police of the designated municipality or, where there is no board, the council, to the chief of police and to the police association, if any.

Idem

(3) Within ninety days of receiving a report under subsection (1) or (2), the board of commissioners of police or council, as the case may be, shall forward the report along with their comments and any comments submitted to them by the chief of police or the police association, to the Attorney General, the Solicitor General and the Commissioner.

12. Subsection 22 (5) of the said Act is amended by inserting after “subsection 4 (3)” in the fifth line “or (4), as the case

may be” and by striking out “4 (4)” in the seventh line and inserting in lieu thereof “4 (6) or (7), as the case may be”.

13.—(1) Clause 23 (2) (b) of the said Act is amended by striking out “where an appeal” in the first line and inserting in lieu thereof “in respect of an appeal that”.

(2) Clause 23 (17) (a) of the said Act is amended by striking out “Metropolitan Police Force” in the first and second lines and inserting in lieu thereof “police force”.

(3) Clause 23 (17) (b) of the said Act is amended by striking out “Metropolitan Police Force” in the first and second lines and inserting in lieu thereof “police force”.

(4) Subsection 23 (20) of the said Act is amended by striking out “Metropolitan Board of Commissioners of Police” in the first line and inserting in lieu thereof “board of commissioners of police for the designated municipality or, where there is no board, the council”.

14. Subsection 26 (1) of the said Act is amended by striking out “Metropolitan Police Force” in the second and third lines and inserting in lieu thereof “police force”.

15. Section 29 of the said Act is amended by striking out “The Municipality of Metropolitan Toronto” in the second and third lines and inserting in lieu thereof “a designated municipality”.

16. Section 31 of the said Act is amended by adding thereto the following clause:

(ca) designating a municipality that has passed a by-law under section 2a as a municipality to which this Act applies.

17. Section 36 of the said Act is repealed and the following substituted therefor:

36. The short title of this Act is the *Police Force Complaints Act, 1984*. Short title

18. This Act comes into force on the day it receives Royal Assent. Commence-
ment

19. The short title of this Act is the *Metropolitan Toronto Police Force Complaints Amendment Act, 1989*. Short title

Bill 5

An Act to amend the Education Act

The Hon. C. Ward
Minister of Education



1st Reading May 1st, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill provides the Minister with the power to make regulations to require boards of education to establish and operate programs in languages other than French and English.

Bill 5**1989****An Act to amend the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 10 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1989, chapter 1, section 2 and 1989, chapter 2, section 2, is further amended by adding thereto the following paragraph:

34. requiring boards to offer programs that deal with languages other than English or French and governing the establishment and operation of such programs.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Education Amendment Act, 1989*. Short title

Bill 5

(Chapter 33
Statutes of Ontario, 1989)

An Act to amend the Education Act

The Hon. C. Ward
Minister of Education



<i>1st Reading</i>	May 1st, 1989
<i>2nd Reading</i>	June 6th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

Bill 5**1989****An Act to amend the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 10 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1989, chapter 1, section 2 and 1989, chapter 2, section 2, is further amended by adding thereto the following paragraph:

34. requiring boards to offer programs that deal with languages other than English or French and governing the establishment and operation of such programs.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Education Amendment Act, 1989*. Short title

Bill 6

An Act to amend certain Statutes to create Heritage Day and Civic Holiday as Public Holidays

Mr. Fleet



1st Reading May 4th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to establish a new holiday in February to celebrate Heritage Day and to give official holiday status to Civic Holiday, the first Monday in August.

The Bill also gives the Lieutenant Governor in Council the power to proclaim that aspect of Canadian or Ontario heritage that will be celebrated each year.

Bill 6**1989**

**An Act to amend certain Statutes to create
Heritage Day and Civic Holiday as Public Holidays**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (l) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1989, chapter 4, section 1, is repealed and the following substituted therefor:

- (l) “public holiday” means New Year’s Day, Heritage Day, being the third Monday in February in each year, Good Friday, Victoria Day, Canada Day, Civic Holiday, being the first Monday in August in each year, Labour Day, Thanksgiving Day and Christmas Day.

2. Clause 1 (1) (a) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1989, chapter 3, section 1, is amended by adding thereto the following subclauses:

- (ia) Heritage Day, being the third Monday in February in each year,

.

- (iva) Civic Holiday, being the first Monday in August in each year.

3. Paragraph 11 of section 30 of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is amended by striking out “Dominion Day” in the fifth line and inserting in lieu thereof “Heritage Day, being the third Monday in February in each year, Canada Day, Civic Holiday, being the first Monday in August in each year”.

Proclamation

4. The Lieutenant Governor in Council may by proclamation establish the particular aspect of the heritage of Canada or Ontario to be commemorated each year on Heritage Day.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Public Holidays Statute Law Amendment Act, 1989*.

Bill 7

An Act respecting Heritage Day

Mr. McLean



1st Reading May 4th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to name the third Monday in the month of February "Heritage Day" and to designate this day as a holiday in the Province of Ontario.

Bill 7**1989****An Act respecting Heritage Day**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** Where the third Monday in the month of February in any year is proclaimed a public holiday in a municipality, the name of the holiday shall be Heritage Day. Heritage Day
- 2.** Any Act, regulation, proclamation, contract or document that refers to a public holiday on the third Monday in the month of February shall be deemed to refer to Heritage Day. Other references
- 3.** This Act comes into force on the day it receives Royal Assent. Commencement
- 4.** The short title of this Act is the *Heritage Day Act, 1989*. Short title

Bill 8

An Act to provide for the Licensing of Motor Boat Operators

Mr. McLean



1st Reading May 8th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill, which applies only in respect of motor boats propelled by engines of at least twenty-five horsepower, prohibits the operation of such a motor boat by any person who does not have a motor boat operator's licence.

The Bill requires every person to carry a motor boat operator's licence while operating a motor boat to which the Bill applies and to produce it when requested to do so by a police officer. If unable or unwilling to produce the licence, the motor boat operator is required to give the police officer his or her correct name and address.

The Bill creates the offences of careless operation of a motor boat and impaired operation of a motor boat.

A person who contravenes any of the provisions of the Bill or certain regulations made under the Bill is liable to pay a fine not exceeding \$1,000 and, in some cases, to have his or her motor boat operator's licence suspended or revoked.

Bill 8

1989

An Act to provide for the Licensing of Motor Boat Operators

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Minister” means the Minister of Transportation;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act.

2. This Act applies only in respect of motor boats propelled by engines of at least twenty-five horsepower.

Application

3. No person shall operate a motor boat unless,

Where
licence
required

(a) he or she has a licence issued under subsection 4 (1); or

(b) he or she is a resident of another province, country or state and has a licence issued by that province, country or state authorizing the operation of a motor boat.

4.—(1) The Minister or any person authorized in writing by the Minister shall issue a motor boat operator’s licence to any person who applies in accordance with the regulations, pays the prescribed fee, and,

Issuance of
licences

(a) is at least twelve years of age and has successfully completed a motor boat operation course in accordance with the regulations; or

(b) is at least sixteen years of age and has successfully completed a written examination in accordance with the regulations.

- Idem (2) A person who is authorized by the Minister under subsection (1) to issue licences may retain, from the fee paid in respect of each licence issued, an amount that is approved in writing by the Minister.
- Definition **5.—**(1) In this section, “licence” means,
- (a) a licence issued under subsection 4 (1); or
 - (b) with respect to a resident of another province, country or state, a licence issued by that province, country or state authorizing the operation of a motor boat.
- Operator to carry licence (2) Every person shall carry his or her licence at all times while operating a motor boat and shall produce it when requested to do so by a police officer.
- Operator to identify self (3) Every person who is unable or refuses to produce a licence in accordance with subsection (2) shall give his or her correct name and address to the police officer upon request.
- Arrest without warrant (4) A police officer who on reasonable and probable grounds believes that a person has contravened subsection (3) may arrest the person without warrant.
- Careless operation **6.—**(1) No person shall operate a motor boat without due care and attention or without reasonable consideration for others.
- Impaired operation (2) No person whose ability to operate a motor boat is impaired by alcohol or a drug shall operate a motor boat.
- Offences and fines **7.—**(1) Every person who contravenes section 3, 5 or 6 or a regulation made under clause 8 (d) is guilty of an offence and on conviction is liable to a fine not exceeding \$1,000.
- Suspension and revocation of licences (2) In addition to any fine that may be imposed under subsection (1), the licence of any person who is convicted of contravening section 5 or 6 or a regulation made under clause 8 (d) may be suspended for a period of up to two years or may be revoked.
- Regulations **8.** The Lieutenant Governor in Council may make regulations,
- (a) providing for the periodic expiry and renewal of motor boat operators' licences;

- (b) establishing procedures for obtaining or renewing motor boat operators' licences;
- (c) prescribing fees for the issuance or renewal of motor boat operators' licences;
- (d) designating classes of motor boats that may not be operated by persons under sixteen years of age;
- (e) respecting motor boat operation courses to be completed by applicants for motor boat operators' licences who are under the age of sixteen;
- (f) respecting written examinations to be completed by applicants for motor boat operators' licences who are at least sixteen years of age.

9. This Act comes into force on the day it receives Royal Assent. Commence-
ment

10. The short title of this Act is the *Motor Boat Operators' Licensing Act, 1989*. Short title

Bill 9

Private Member's Bill

2ND SESSION, 34TH LEGISLATURE, ONTARIO

38 ELIZABETH II, 1989

Bill 9



**An Act to amend certain Statutes to create
Heritage Day and Civic Holiday as Public Holidays**

Mr. Fleet

1st Reading May 10th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to establish a new holiday in February to celebrate Heritage Day and to give official holiday status to Civic Holiday, the first Monday in August.

The Bill also gives the Lieutenant Governor in Council the power to proclaim that aspect of Canadian or Ontario heritage that will be celebrated each year.

Bill 9**1989**

**An Act to amend certain Statutes to create
Heritage Day and Civic Holiday as Public Holidays**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (l) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1989, chapter 4, section 1, is repealed and the following substituted therefor:

- (l) “public holiday” means New Year’s Day, Heritage Day, being the third Monday in February in each year, Good Friday, Victoria Day, Canada Day, Civic Holiday, being the first Monday in August in each year, Labour Day, Thanksgiving Day, Christmas Day and the 26th day of December.

2. Clause 1 (1) (a) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1989, chapter 3, section 1, is amended by adding thereto the following subclauses:

- (ia) Heritage Day, being the third Monday in February in each year,

.

- (iva) Civic Holiday, being the first Monday in August in each year.

3. Paragraph 11 of section 30 of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is amended by striking out “Dominion Day” in the fifth line and inserting in lieu thereof “Heritage Day, being the third Monday in February in each year, Canada Day, Civic Holiday, being the first Monday in August in each year”.

Proclamation

4. The Lieutenant Governor in Council may by proclamation establish the particular aspect of the heritage of Canada or Ontario to be commemorated each year on Heritage Day.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Public Holidays Statute Law Amendment Act, 1989*.

Bill 10



An Act to control Automobile Insurance Rates

The Hon. M. Elston
Minister of Financial Institutions

1st Reading May 11th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill 10

1989

An Act to control Automobile Insurance Rates

Whereas, pending the completion of the review of alternative insurance products, it is desirable that legislation be enacted to control premiums, as provided in this Act;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Definitions

“automobile insurance” has the same meaning as in section 1 of the *Insurance Act*, except that it does not include insurance for any motor vehicle or trailer that may be operated legally on a highway without a permit issued under section 7 of the *Highway Traffic Act* other than a motorized snow vehicle;

R.S.O. 1980,
cc. 218, 198

“Board” means the Ontario Automobile Insurance Board;

“capped rate”, means, in respect of a coverage under a contract of automobile insurance, the lesser of,

- (a) the premium that would have been charged for the coverage for comparable risks for a term commencing on the 17th day of April, 1989 had the premium been calculated using the rules, procedures and factors used by the insurer on that date, plus an amount equal to 7.6 per cent of that premium,
- (b) the premium that would be charged for the coverage for comparable risks using the Facility Association rate in effect at the beginning of the term of the contract;

“Facility Association rate” means the premium for a coverage determined under the Plan of Operation of the Facility Association under the *Compulsory Automobile Insurance Act*;

R.S.O. 1980,
c. 83

R.S.O. 1980, c. 218 “insurer” means an insurer licensed under the *Insurance Act* and carrying on the business of automobile insurance but does not include an insurer whose licence is limited to contracts of reinsurance;

“regulations” means the regulations made under this Act.

Facility Association
R.S.O. 1980, c. 83 (2) The Facility Association established under the *Compulsory Automobile Insurance Act* shall be deemed to be a person for the purposes of this Act and any proceeding before the Board or a court under this Act may be instituted by or against it in its own name.

Rates capped 2.—(1) Except as permitted by the regulations, no insurer shall charge any premium for a coverage under a contract of automobile insurance the term of which commences after the 31st day of May, 1989 that exceeds the capped rate for the coverage.

Idem (2) Except as permitted by this Act or the regulations, the Facility Association shall not increase the Facility Association rate in respect of any coverage.

Function of Board 3. The Board shall monitor for compliance with this Act.

Information 4.—(1) An insurer shall make a return to the Board, in such form and at such times as the Board may require, showing such information with respect to rates charged by the insurer in relation to contracts of automobile insurance together with such other information concerning such rates and contracts as the Board may require.

Idem (2) Every return under subsection (1) shall be verified by the statutory declaration of an officer of the insurer and the declaration shall be in such form as the Board may specify.

Application of 1988, c. 18, ss. 2-18 5.—(1) Sections 2 to 18 of the *Ontario Automobile Insurance Board Act, 1988* apply with necessary modifications to matters arising under this Act.

Non-application of 1988, c. 18, s. 33 (2) Section 33 of the *Ontario Automobile Insurance Board Act, 1988* ceases to have effect until a day to be named by proclamation of the Lieutenant Governor.

Board orders (3) The orders of the Board issued the 1st day of February, 1989, the 13th day of February, 1989 and the 16th day of March, 1989 shall not take effect.

Facility Association rate 6.—(1) The Facility Association may increase the Facility Association rate in respect of any coverage under contracts of

automobile insurance by an amount not exceeding 7.6 per cent of the Facility Association rate in effect on the 17th day of April, 1989.

(2) The Facility Association shall file all rates that are increased under subsection (1) with the Board before the rates take effect. Filing

(3) A rate increase under this section may apply only to contracts of automobile insurance, the terms of which commence after the 31st day of May, 1989. Effective date

7.—(1) Every person who contravenes or fails to comply with this Act, the regulations or an order of the Board is guilty of an offence and on conviction is liable to a fine of not more than \$25,000, in the case of an individual, and not more than \$100,000, in any other case. Offences and penalties

(2) If a corporation or the Facility Association contravenes or fails to comply with this Act, the regulations or an order of the Board, every officer or director thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or Facility Association, as the case may be, has been prosecuted or convicted. Parties

(3) A prosecution for an offence under this Act shall not be instituted except with the consent in writing of the Board. Consent

(4) A prosecution for an offence under this Act shall not be instituted more than two years after the facts upon which the prosecution is based first came to the knowledge of the Board. Limitation period

8.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) permitting insurers to increase their capped rates in accordance with the regulations;
- (b) exempting insurers and the Facility Association from the requirements of this Act in respect of such categories of automobile insurance, such coverages or such classes of risk exposure as may be set out in the regulations;
- (c) permitting the Facility Association to increase Facility Association rates in accordance with the regulations.

- Idem (2) A regulation may be general or particular in its application.
- Conflict with 1988, c. 18 **9.** If there is a conflict between a provision of this Act or of a regulation and a provision of the *Ontario Automobile Insurance Board Act, 1988* or an order of the Board under that Act, the provision of this Act or of the regulation prevails.
- Repeal **10.** This Act is repealed on the earlier of,
(a) the 31st day of December, 1990; or
(b) a day to be named by proclamation of the Lieutenant Governor.
- Commencement **11.** This Act shall be deemed to have come into force on the 17th day of April, 1989.
- Short title **12.** The short title of this Act is the *Automobile Insurance Rates Control Act, 1989*.



Bill 10

(Chapter 34
Statutes of Ontario, 1989)

An Act to control Automobile Insurance Rates

The Hon. M. Elston
Minister of Financial Institutions



<i>1st Reading</i>	May 11th, 1989
<i>2nd Reading</i>	June 12th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

Bill 10

1989

An Act to control Automobile Insurance Rates

Whereas, pending the completion of the review of alternative insurance products, it is desirable that legislation be enacted to control premiums, as provided in this Act; Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Definitions

“automobile insurance” has the same meaning as in section 1 of the *Insurance Act*, except that it does not include insurance for any motor vehicle or trailer that may be operated legally on a highway without a permit issued under section 7 of the *Highway Traffic Act* other than a motorized snow vehicle;

R.S.O. 1980,
cc. 218, 198

“Board” means the Ontario Automobile Insurance Board;

“capped rate”, means, in respect of a coverage under a contract of automobile insurance, the lesser of,

- (a) the premium that would have been charged for the coverage for comparable risks for a term commencing on the 17th day of April, 1989 had the premium been calculated using the rules, procedures and factors used by the insurer on that date, plus an amount equal to 7.6 per cent of that premium,
- (b) the premium that would be charged for the coverage for comparable risks using the Facility Association rate in effect at the beginning of the term of the contract;

“Facility Association rate” means the premium for a coverage determined under the Plan of Operation of the Facility Association under the *Compulsory Automobile Insurance Act*;

R.S.O. 1980,
c. 83

R.S.O. 1980, c. 218 “insurer” means an insurer licensed under the *Insurance Act* and carrying on the business of automobile insurance but does not include an insurer whose licence is limited to contracts of reinsurance;

“regulations” means the regulations made under this Act.

Facility Association
R.S.O. 1980, c. 83 (2) The Facility Association established under the *Compulsory Automobile Insurance Act* shall be deemed to be a person for the purposes of this Act and any proceeding before the Board or a court under this Act may be instituted by or against it in its own name.

Rates capped 2.—(1) Except as permitted by the regulations, no insurer shall charge any premium for a coverage under a contract of automobile insurance the term of which commences after the 31st day of May, 1989 that exceeds the capped rate for the coverage.

Idem (2) Except as permitted by this Act or the regulations, the Facility Association shall not increase the Facility Association rate in respect of any coverage.

Function of Board 3. The Board shall monitor for compliance with this Act.

Information 4.—(1) An insurer shall make a return to the Board, in such form and at such times as the Board may require, showing such information with respect to rates charged by the insurer in relation to contracts of automobile insurance together with such other information concerning such rates and contracts as the Board may require.

Idem (2) Every return under subsection (1) shall be verified by the statutory declaration of an officer of the insurer and the declaration shall be in such form as the Board may specify.

Application of 1988, c. 18, ss. 2-18 5.—(1) Sections 2 to 18 of the *Ontario Automobile Insurance Board Act, 1988* apply with necessary modifications to matters arising under this Act.

Non-application of 1988, c. 18, s. 33 (2) Section 33 of the *Ontario Automobile Insurance Board Act, 1988* ceases to have effect until a day to be named by proclamation of the Lieutenant Governor.

Board orders (3) The orders of the Board issued the 1st day of February, 1989, the 13th day of February, 1989 and the 16th day of March, 1989 shall not take effect.

Facility Association rate 6.—(1) The Facility Association may increase the Facility Association rate in respect of any coverage under contracts of

automobile insurance by an amount not exceeding 7.6 per cent of the Facility Association rate in effect on the 17th day of April, 1989.

(2) The Facility Association shall file all rates that are increased under subsection (1) with the Board before the rates take effect.

Filing

(3) A rate increase under this section may apply only to contracts of automobile insurance, the terms of which commence after the 31st day of May, 1989.

Effective date

7.—(1) Every person who contravenes or fails to comply with this Act, the regulations or an order of the Board is guilty of an offence and on conviction is liable to a fine of not more than \$25,000, in the case of an individual, and not more than \$100,000, in any other case.

Offences and penalties

(2) If a corporation or the Facility Association contravenes or fails to comply with this Act, the regulations or an order of the Board, every officer or director thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or Facility Association, as the case may be, has been prosecuted or convicted.

Parties

(3) A prosecution for an offence under this Act shall not be instituted except with the consent in writing of the Board.

Consent

(4) A prosecution for an offence under this Act shall not be instituted more than two years after the facts upon which the prosecution is based first came to the knowledge of the Board.

Limitation period

8.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) permitting insurers to increase their capped rates in accordance with the regulations;
- (b) exempting insurers and the Facility Association from the requirements of this Act in respect of such categories of automobile insurance, such coverages or such classes of risk exposure as may be set out in the regulations;
- (c) permitting the Facility Association to increase Facility Association rates in accordance with the regulations.

Idem

(2) A regulation may be general or particular in its application.

Conflict with
1988, c. 18

9. If there is a conflict between a provision of this Act or of a regulation and a provision of the *Ontario Automobile Insurance Board Act, 1988* or an order of the Board under that Act, the provision of this Act or of the regulation prevails.

Repeal

10. This Act is repealed on the earlier of,

(a) the 31st day of December, 1990; or

(b) a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

11. This Act shall be deemed to have come into force on the 17th day of April, 1989.

Short title

12. The short title of this Act is the *Automobile Insurance Rates Control Act, 1989*.



Bill 11

Projet de loi 11

An Act to amend the
Change of Name Act,
1986

Loi portant modification de la
Loi de 1986 sur le
changement de nom

Mr. Fleet

M. Fleet

1st Reading May 11th, 1989
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 11 mai 1989
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Act provides that when a spouse whose birth was registered in Ontario changes his or her surname as a result of marriage, his or her birth certificate is to be changed accordingly. The purpose of the Bill is to repeal that provision.

NOTE EXPLICATIVE

La loi prévoit que lorsqu'un conjoint dont la naissance a été enregistrée en Ontario change son nom de famille par suite d'un mariage, son certificat de naissance doit être modifié en conséquence. L'objet du projet de loi est d'abroger cette disposition.

Bill 11**1989****An Act to amend the
Change of Name Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 2 (1) (a) of the *Change of Name Act, 1986*, being chapter 7, is repealed and the following substituted therefor:

- (a) a person whose birth is registered in Ontario is entitled to be recognized by,
 - (i) the name appearing on the person's change of name certificate, if the person's name has been changed under section 3 of this Act, or
 - (ii) in all other cases, the name appearing on the person's birth certificate or change of name certificate,

unless clause (c) applies.

2. Subsection 3 (4) of the said Act is repealed and the following substituted therefor:

Certificate (4) On receiving the fee and documents, the Registrar General shall register the change of name and issue a change of name certificate to the person.

3. Section 9 of the said Act is amended by striking out "new birth certificate" in the sixth line and inserting in lieu thereof "birth certificate showing the new name".

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Change of Name Amendment Act, 1989*.

Projet de loi 11**1989****Loi portant modification de la
Loi de 1986 sur le changement de nom**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 L'alinéa 2 (1) a) de la *Loi de 1986 sur le changement de nom*, qui constitue le chapitre 7, est abrogé et remplacé par ce qui suit :

- a) la personne dont la naissance a été enregistrée en Ontario a le droit d'être connue :
 - (i) sous le nom qui figure dans son certificat de changement de nom, si le nom de la personne a été changé en vertu de l'article 3 de la présente loi,
 - (ii) sous le nom qui figure dans son certificat de naissance ou de changement de nom, dans tous les autres cas,

à moins que l'alinéa c) ne s'applique.

2 Le paragraphe 3 (4) de cette loi est abrogé et remplacé par ce qui suit :

(4) Lorsqu'il reçoit les droits et les documents, le registraire général enregistre le changement de nom et délivre à la personne un certificat de changement de nom. Certificat

3 L'article 9 de cette loi est modifié par substitution, aux mots «nouveau certificat de naissance» à la quatrième ligne, des mots «certificat de naissance dans lequel figure le nouveau nom».

4 La présente loi entre en vigueur le jour où elle reçoit la sanction royale. Entrée en
vigueur

5 Le titre abrégé de la présente loi est *Loi de 1989 modifiant la Loi sur le changement de nom*. Titre abrégé

Bill 12



An Act respecting Environmental Rights in Ontario

Mrs. Grier

1st Reading May 15th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for environmental rights in Ontario. The Bill permits an action to be brought in the Supreme Court of Ontario by any person for the protection of the environment. The Bill also provides for public notice and review of certain approvals, permits or other environment-related orders before the approvals, permits or orders come into force, and for regular review by the Environmental Assessment Board of all regulations affecting the environment. In addition, the Bill prohibits an employer from dismissing an employee who reports to any person an act that contaminates or degrades the environment.

The Bill also amends the *Environmental Protection Act* to expand the scope of the protection provided to employees who refuse to pollute, by adding several statutes to the list set out in subsection 134b (2) of that Act.

Bill 12**1989****An Act respecting Environmental Rights in Ontario**

WHEREAS a healthy and sustainable environment is the basis of the health and well-being of the people of Ontario;

Preamble

AND WHEREAS the environment of Ontario is under stress from contamination and degradation;

AND WHEREAS the people of Ontario face substantial obstacles to their ability to participate in environmental decision-making and to protect their common interest in a healthy and sustainable environment;

AND WHEREAS it is desirable to remove these obstacles and ensure the important role of the people of Ontario and their government in securing a healthy environment for present and future generations;

AND WHEREAS it is desirable to conserve and maintain the resources of the Province for the benefit of present and future generations;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I**INTERPRETATION AND PURPOSE****1. In this Act,**

Definitions

“Board” means the Environmental Assessment Board established under the *Environmental Assessment Act*;

R.S.O. 1980,
c. 140

“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of people which may,

- (a) impair the quality of the environment or the public trust therein for any use that can be made of it,
- (b) cause injury or damage to property or to plant or animal life,
- (c) cause harm or material discomfort to any person,
- (d) adversely affect the health or impair the safety of any person,
- (e) render any property or plant or animal life unfit for use by people,
- (f) cause loss of enjoyment of normal use of property, or
- (g) interfere with the normal conduct of business,

and “contaminate” and “contamination” have corresponding meanings;

“Court” means the Supreme Court of Ontario;

“degradation” means any destruction or significant decrease in the quality of the environment or the public trust therein other than a change resulting from contamination and “degrade” has a corresponding meaning;

“environment” means,

- (a) air, land or water,
- (b) plant and animal life, including people,
- (c) the social, economic and cultural conditions that influence the life of people or a community,
- (d) any building, structure, machine or other device or thing made by people,
- (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of people, or
- (f) any part or combination of the foregoing and the inter-relationships between any two or more of them,

in or of Ontario;

“Minister” means the Minister of the Environment;

“public trust” means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;

“regulation” means a regulation made under an Act listed in the Schedule to this Act.

2. The purpose of this Act is to ensure the health and sustainability of the environment of Ontario and, in particular,

Purpose

- (a) to facilitate the participation of the people of Ontario in decisions affecting the environment and their ability to protect their common interest in a healthy and sustainable environment;
- (b) to recognize the right of the people of Ontario to an environment that is adequate for their health and well-being and sustainable into the future; and
- (c) to recognize the obligations of the Province of Ontario to conserve and maintain the resources of the Province for present and future generations.

3.—(1) The people of Ontario have a right to a healthy and sustainable environment, including clean air and water, to the conservation of the natural, scenic, historic and aesthetic values of the environment, and to the protection of ecosystems and biological diversity.

Environmental rights

(2) The Province of Ontario, as trustee of Ontario's public lands, waters and natural resources, shall conserve and maintain them for the benefit of present and future generations.

Idem

(3) It is hereby declared that it is in the public interest to provide every person with an adequate remedy to protect and conserve the environment and the public trust therein from contamination and degradation.

Declaration

4.—(1) A person who considers that the environment is being contaminated or degraded may in writing, specifying the nature of the contamination or degradation, request that the Minister investigate the alleged contamination or degradation.

Request for investigation

(2) Where the Minister receives a written request under subsection (1) and is satisfied that the request is made in good faith and is not frivolous, the Minister shall make, or cause to

Written request

be made, any investigation that he or she considers necessary of the alleged contamination or degradation, its source, its effect on the environment and of any advisable remedial action.

Report

(3) The Minister shall provide a copy of the report of the investigation to the person who requested the investigation within ninety days of the date of the request.

PART II

CAUSE OF ACTION

Right of
action

5.—(1) If an activity has contaminated or degraded, or is likely to contaminate or degrade, the environment, any person may commence an action in the Court against any person who is responsible for the activity.

Idem

(2) Subsection (1) applies without any requirement that the person commencing the action allege or establish that there has been, is or will be an infringement of an approval, permit, licence, standard, regulation, rule or order established by or under an Act listed in the Schedule.

Court may
determine
standard

(3) In an action commenced under this section, if the activity complained of is not governed by a standard established under an Act listed in the Schedule, the Court may hear evidence as to the standard, if any, that should apply to the defendant, having regard to the purposes of this Act, and the Court may order the defendant to comply with such standard as it may determine.

Judicial
review

(4) If an activity has contaminated or degraded, or is likely to contaminate or degrade, the environment, any person may apply for judicial review of the exercise or non-exercise of any power or the fulfilment or non-fulfilment of any duty conferred or imposed by any Act on the Minister of the Environment or any other Minister responsible for regulatory, fiscal or proprietary control of the activity.

Citizen suit

6.—(1) Any person may commence an action in the Court against any person who appears to be in violation of any Act listed in the Schedule or of any approval, permit, licence, standard, regulation, rule or order established under an Act listed in the Schedule.

Idem

(2) No action under subsection (1) shall be commenced if the responsible Ministry is diligently pursuing enforcement action against the potential defendant.

(3) Damages payable under this section shall be paid to the Government of Ontario. Idem

7. Any person may apply for judicial review under subsection 5 (4) or may bring an action to enforce the public's responsibility to protect the environment, including an action in nuisance or an action under section 5. Standing

8. In the trial of an action commenced under this Act, the Court shall not order the posting of security for costs in an amount in excess of \$1,000. Security for costs

9.—(1) If the activity of the defendant that is the subject-matter of an action is not governed by a standard established under an Act listed in the Schedule or under subsection 5 (3) and if the plaintiff has established that the activity of the defendant has contaminated or degraded, or is likely to contaminate or degrade, the quality of the environment, the onus shall be on the defendant to establish that there is no feasible and prudent alternative to the activity and that such activity is in the best interests of the public having regard to the purposes of this Act. Onus

(2) It shall be a defence to an action commenced under this Act that the activity of the defendant is authorized by a standard established by or under an Act listed in the Schedule unless the plaintiff can establish, on a balance of probabilities, that the activity has caused, or is likely to cause, severe or irreparable contamination or degradation to the environment. Defence

(3) It shall not be a defence to an action commenced under this Act that, Prohibited defences

(a) the defendant is not the sole cause of the alleged or potential contamination or degradation; or

(b) it cannot be established that the contaminant which the defendant discharged or deposited or permitted to be discharged or deposited was the cause, in fact, of the contamination or degradation of the environment or the public trust therein, if the effect on the environment is of a nature consistent with the contaminant or source of degradation being a cause.

10. In an action commenced under this Act, if it has been established that the activity of the defendant has contaminated or degraded, or is likely to contaminate or degrade, the environment, the Court may grant either an interim or permanent injunction, order the defendant to remedy any damage caused by the defendant's activity, award damages, impose conditions Injunction, etc.

on the defendant or make such other order as the Court may consider is necessary.

Reference

11.—(1) The Court may, on the motion of any party or on its own motion, refer any question, except the final determination of the issue, to the Board and the Court may also grant an interim injunction or such other temporary relief as the Court considers necessary for the protection of the environment or the public trust therein pending final determination of the issue.

Order

(2) When the Board has completed its review and consideration of the question referred to it under subsection (1), the Board shall make recommendations concerning the matter in question to the Court, and the Court shall review the recommendations and make such order as it considers appropriate under section 10.

Expert

12.—(1) In any action under this Act, the Court may appoint an expert, who shall be a disinterested person and qualified as an expert in the relevant field, to give technical and scientific testimony under oath.

Costs

(2) The Court may order that the costs of the expert be paid in such manner and by such persons as the Court considers appropriate.

PART III

CLASS ACTIONS

Class actions

13.—(1) In an action under this Act, the Court may by order permit one or more persons to act as representatives of a class of persons if, in the opinion of the Court,

- (a) a question arises in the proceeding that is common to each member of the class;
- (b) the material facts giving rise to the claim for relief of the representatives are similar or related to the material facts giving rise to a claim for relief of the members of the class; and
- (c) the representatives are acting in good faith and in the interests of the class.

Idem

(2) For the purposes of clause (1) (b), material facts relating to different transactions or events or contracts shall not be taken to be dissimilar or unrelated for that reason alone.

(3) The Court may provide in the judgment of a class Judgment
action for subsequent determination of the amount and distri-
bution of damages assessed against the defendant.

(4) If damages payable to members of the class remain Uncollected
damages
uncollected for more than 120 days after payment by the
defendant into the Court, the amount of the uncollected dam-
ages shall be applied in such manner as the Court may order.

PART IV

INSTRUMENTS AND REGULATIONS

14.—(1) In this Part, Definitions

“appropriate board” means any board, tribunal or commis-
sion established by an Act listed in the Schedule empow-
ered to hold hearings with respect to a matter relating to
such Act, and where no such board exists, the Board;

“instrument” means any licence, permit, approval, certificate
of approval, program approval, control order or other
order made under an Act listed in the Schedule that would
permit a person to contaminate or degrade the environ-
ment;

“proper authority” means any authority under an Act listed in
the Schedule empowered to issue an instrument.

(2) Despite any other Act, no instrument is effective unless Effect of
contravention
the requirements of this section have been met.

(3) If a new instrument or a revision to an existing instru- Notice of
proposed
instrument
ment is proposed, the proper authority shall give notice of the
proposal by publishing it in *The Ontario Gazette* and in two
newspapers having general circulation throughout the Prov-
ince of Ontario.

(4) Any person may, within thirty days of the giving of Submissions
notice or within such longer time as may be stated in the
notice,

- (a) make written submissions to the proper authority
with respect to the proposed provisions of the
instrument; and
- (b) by written notice to the proper authority, request a
hearing by the appropriate board with respect to the
proposed provisions of the instrument.

- Idem (5) The proper authority shall review any written submissions and shall respond in writing to the issues raised therein within a reasonable period of time.
- Idem (6) If a request for a hearing has been made, the proper authority shall refer the matter to the appropriate board unless, in its opinion, the request is not made in good faith or is frivolous or is made only for the purpose of delay.
- Idem (7) If the proper authority has declined to refer the matter to the appropriate board under subsection (6), it shall give notice of its decision, together with written reasons therefor.
- When instrument may be issued (8) If there is no request for a hearing under subsection (4), the proper authority may issue the proposed instrument not less than ten days after the time for filing such notice has elapsed.
- Idem (9) If there is a request for a hearing under subsection (4) but the proper authority declines to refer the matter to the relevant board, the proper authority may issue the proposed instrument not less than twenty days after the time for filing such notice has elapsed.
- Review of instrument (10) Any person may apply to the Board for a review of an existing instrument in respect of the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, having particular regard to technological advances that can be applied in the Province of Ontario, and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked.
- Notice of hearing (11) Where the appropriate board holds a hearing under subsection (6) or (10), the appropriate board shall,
- (a) appoint a time and place for the hearing at a city or town convenient to persons likely to be affected by the contamination or degradation;
 - (b) cause notice to be given of the hearing,
 - (i) to the proper authority,
 - (ii) to any person who submitted notice to the proper authority under subsection (4),
 - (iii) to any person who submitted notice to the Board under subsection (10), and

(iv) to any person that the appropriate board may direct; and

(c) publish notice of the hearing in *The Ontario Gazette* and in two newspapers having general circulation throughout the Province of Ontario.

(12) Subject to this Act, any hearing initiated under this section shall be conducted according to the rules and procedures that apply to the appropriate board. Procedure

(13) The appropriate board may make such order as to costs as it considers just. Costs

(14) Upon the completion of the hearing, the appropriate board may make such recommendation, order or decision in respect of the matter referred to it under this section as the appropriate board is empowered to make under its enabling Act. Recommendation, etc.

(15) The proper authority may, in an emergency situation, issue an instrument under an Act listed in the Schedule without complying with the other provisions of this section, but such an instrument shall cease to be effective sixty days from the date on which it is issued. Emergencies

15.—(1) In this section, “regulation-making authority” means any authority empowered to make any regulation under an Act listed in the Schedule. Notice of proposed regulation

(2) Where a regulation-making authority proposes to make a regulation that may affect the environment, it shall cause the proposed regulation to be published in *The Ontario Gazette* at least sixty days before it proposes to file the regulation with the Registrar of Regulations and shall request briefs or submissions in relation to the proposed regulation. Publication

(3) The regulation-making authority shall review and consider the submissions received within the sixty-day period and shall respond in writing to the issues raised therein within a reasonable period of time. Review of submissions

(4) A regulation filed in contravention of subsection (2) does not come into effect. Effect of contravention

16.—(1) In 1989 and every fifth year thereafter, the Board shall review all regulations that relate to the quality of the environment having regard to their adequacy to protect the environment and the public trust therein from contamination. Review of regulations

and degradation, having particular regard to technological advances that can be applied in the Province of Ontario.

Public notice (2) The Board shall give public notice of the review and, during the review, may receive public submissions and evidence to the extent and in the manner that it considers appropriate.

Report (3) Upon completion of the review, the Board shall make a report thereon to the Minister, including any recommended changes to the regulations, and the Minister, after receiving the report, shall then lay the report before the Assembly if it is in session or, if not, at the commencement of the next session.

PART V

EMPLOYEE RIGHTS

No discipline,
dismissal,
etc., by
employer

17.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to any person an act that contaminates or degrades the environment.

Complaint

(2) A person complaining of a contravention of subsection (1) may file the complaint in writing with the Ontario Labour Relations Board.

Application
of
R.S.O. 1980,
c. 141

(3) Subsections 134b (4) to (15) of the *Environmental Protection Act* apply with necessary modifications to a complaint under subsection (2).

PART VI

MISCELLANEOUS

Other
remedies
preserved

18. Nothing in this Act affects any other remedies available at law.

Conflict

19. If there is a conflict between any provision of this Act and any other Act, the provision of this Act prevails.

20. This Act binds the Crown.

Crown

21. Subsection 134b (2) of the *Environmental Protection Act*, being chapter 141 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 52, section 22, is amended by striking out “or” at the end of clause (h) and by adding thereto the following clauses:

- | | |
|--|------------------------|
| (j) the <i>Conservation Authorities Act</i> ; | R.S.O. 1980,
c. 85 |
| (k) the <i>Consolidated Hearings Act, 1981</i> ; | 1981, c. 20 |
| (l) the <i>Drainage Act</i> ; | R.S.O. 1980,
c. 126 |
| (m) the <i>Lakes and Rivers Improvement Act</i> ; | R.S.O. 1980,
c. 229 |
| (n) the <i>Mining Act</i> ; | R.S.O. 1980,
c. 268 |
| (o) the <i>Niagara Escarpment Planning and Development Act</i> ; | R.S.O. 1980,
c. 316 |
| (p) the <i>Ontario Waste Management Corporation Act, 1981</i> ; | 1981, c. 21 |
| (q) the <i>Pits and Quarries Control Act</i> ; or | R.S.O. 1980,
c. 378 |
| (r) the <i>Planning Act, 1983</i> , | 1983, c. 1 |

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22. This Act comes into force on the day it receives Royal Assent. Commence-
ment

23. The short title of this Act is the *Ontario Environmental Rights Act, 1989*. Short title

SCHEDULE

Conservation Authorities Act

Consolidated Hearings Act, 1981

Drainage Act

Environmental Assessment Act

Environmental Protection Act

Lakes and Rivers Improvement Act

Mining Act

Niagara Escarpment Planning and Development Act

Ontario Waste Management Corporation Act, 1981

Ontario Water Resources Act

Pesticides Act

Pits and Quarries Control Act

Planning Act, 1983

2ND SESSION, 34TH LEGISLATURE, ONTARIO38 ELIZABETH II, 1989

Bill 13

An Act respecting Environmental Rights in Ontario

Mrs. Grier



1st Reading November 9th, 1987

2nd Reading

3rd Reading

Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTE

The purpose of the Bill is to provide for environmental rights in Ontario. The Bill permits an action to be brought in the Supreme Court of Ontario by any person for the protection of the environment. The Bill also provides for public notice and review of certain approvals, permits or other environment-related orders before the approvals, permits or orders come into force. Other provisions of the Bill provide for public access to information relating to environmental decisions and for regular review by the Environmental Assessment Board of all regulations affecting the environment. The Bill also permits the Lieutenant Governor in Council to establish a fund to assist persons and public interest groups for the purpose of ensuring that points of view representative of significant bodies of opinion are adequately represented in environmental proceedings.

Bill 13**1989****An Act respecting Environmental Rights in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I**INTERPRETATION AND PURPOSE****1. In this Act,**

Definitions

“Board” means the Environmental Assessment Board established under the *Environmental Assessment Act*;

R.S.O. 1980,
c. 140

“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of people which may,

- (a) impair the quality of the environment or the public trust therein for any use that can be made of it,
- (b) cause injury or damage to property or to plant or animal life,
- (c) cause harm or material discomfort to any person,
- (d) adversely affect the health or impair the safety of any person, or
- (e) render any property or plant or animal life unfit for use by people,

and “contamination” has a corresponding meaning;

“Court” means the Supreme Court of Ontario;

“degradation” refers to any destruction or significant decrease in the quality of the environment or the public trust therein

other than a change resulting from contamination and "degrade" has a corresponding meaning;

"environment" means,

- (a) air, land or water,
- (b) plant and animal life, including people,
- (c) the social, economic and cultural conditions that influence the life of people or a community,
- (d) any building, structure, machine or other device or thing made by people,
- (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of people, or
- (f) any part or combination of the foregoing and the inter-relationships between any two or more of them,

in or of Ontario;

"Minister" means the Minister of the Environment;

"public trust" means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;

"regulation" means a regulation made under an Act listed in the Schedule to this Act.

Environ-
mental
rights

2.—(1) The people of Ontario have a right to clean air, pure water and the preservation of the natural, scenic, historic and aesthetic values of the environment.

Idem

(2) Ontario's public lands, waters and natural resources are the common property of all the people, including generations yet to come, and, as trustee of those lands, waters and resources, the Government of Ontario shall conserve and maintain them for the benefit of present and future generations.

Declaration

(3) It is hereby declared that it is in the public interest to provide every person with an adequate remedy to protect and conserve the environment and the public trust therein from contamination and degradation.

3.—(1) A person who considers that the environment is being contaminated or degraded may in writing, specifying the nature of the contamination or degradation, request that the Minister investigate the alleged contamination or degradation.

Request for investigation

(2) Where the Minister receives a written request under subsection (1) and is satisfied that the request is made in good faith and is not frivolous, the Minister shall make, or cause to be made, any investigation that he or she considers necessary of the alleged contamination or degradation, its source, its effect on the environment and of any advisable remedial action.

Written request

(3) Upon an investigation referred to in subsection (2) being completed, the Minister shall provide a copy of the resulting report to the person who requested the investigation.

Report

PART II

CAUSE OF ACTION

4.—(1) Where an activity has contaminated or degraded or an activity is likely to commence, is commencing or is continuing that threatens to contaminate or degrade the environment, any person may commence an action in the Supreme Court of Ontario, without having to show any greater or different right, harm or interest than that of other members of the public or any pecuniary or proprietary right or interest in the subject-matter of the proceedings, against,

Right of action

- (a) any person who is responsible for the activity; and
- (b) any Minister responsible for regulatory, fiscal or proprietary control of the activity.

(2) Subsection (1) applies without any requirement that the person commencing the action allege or establish that there had been an infringement of an approval, permit, licence, standard, regulation, rule or order established by or under an Act listed in the Schedule.

Idem

(3) In an action commenced under this section, if the activity complained of is not governed by any legally established standard, the Court may hear evidence as to the standard, if any, that should apply to the defendant, having regard to,

Court may determine standard

- (a) the right of the people of Ontario to the protection of the environment and the public trust therein against contamination or degradation;

- (b) the fulfillment of the widest range of beneficial uses of the environment without contamination or degradation; and
- (c) the achievement of a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities,

and the Court may order the defendant to comply with such standard as it may determine.

Security
for costs
or damages

5.—(1) At any time prior to a trial of the issue in any action commenced under this Act, any defendant or third party may apply to the Court for an order requiring the person bringing the action to post security for costs or damages.

Notice

(2) An application under subsection (1) shall be on notice to all parties and the Court may hear argument concerning the application from any party as to,

- (a) the seriousness of the offence or harm alleged;
- (b) the consequences to the defendant of the order sought; or
- (c) any other matter that the Court considers relevant to the posting of security for costs or damages.

Limitation
on order

(3) Upon the completion of the hearing referred to in subsection (2), if the Court is satisfied that the person bringing the action,

- (a) has a *prima facie* case to bring before the Court; and
- (b) is bringing the action for the protection of the environment or the public trust therein,

the Court shall not order the posting of security for costs or damages in an amount in excess of \$500.

Onus

6.—(1) Where the activity of the defendant that is the subject-matter of an action is not governed by a standard established by or under an Act listed in the Schedule or pursuant to subsection 3 (3) and where the plaintiff has established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the quality of the environment, the onus shall be on the defendant to establish in defence that there is no feasible and prudent alternative to the defendant's activity and that such activity is in the best

interests of the public having regard to the matters set out in subsection 4 (3).

(2) It shall be a defence to an action commenced under this Act that the activity of the defendant that is the subject-matter of this action is authorized by a standard established by or under an Act listed in the Schedule unless the plaintiff can establish, on a balance of probabilities, that the activity has caused or is likely to cause severe or irreparable contamination or degradation to the environment. Defence

(3) It shall not be a defence to an action commenced under this Act that, Prohibited defences

- (a) the defendant is not the sole cause of the alleged or potential contamination or degradation; or
- (b) it cannot be established that the contaminant which the defendant discharged or deposited or permitted to be discharged or deposited was the cause, in fact, of the contamination or degradation of the environment or the public trust therein, where the effect on the environment is of a nature consistent with the contaminant or source of degradation being the total or partial, immediate or mediate cause.

7. In an action commenced under this Act, where it has been established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the environment, the Court may grant either an interim or permanent injunction, order the defendant to remedy any damage caused by his activity, award damages, impose conditions on the defendant or make such other order as the Court may consider is necessary. Injunction, etc.

8.—(1) The Court may, Reference

- (a) on the motion of any party; or
- (b) on its own motion,

refer any question or questions, except the final determination of the issue in question, to the Board as the Court may consider appropriate and the proceedings before the Board shall be conducted in accordance with and subject to the provisions of the *Statutory Powers Procedure Act* and when so referring, the Court may also grant an interim injunction or such other temporary relief as the Court considers necessary for the protection of the environment or the public trust therein pending

final determination of the issue and, in so referring, the Court shall retain jurisdiction of the action.

Order

(2) When the Board has completed its review and consideration of the question referred to it under subsection (1), the Board shall make recommendations concerning the matter in question to the Court, and the Court shall review the recommendations and make such order as it considers appropriate under section 7.

Inspector

9.—(1) In any action under this Act, the Court may appoint an inspector, who shall be a disinterested person and qualified as an expert in the relevant field, to take technical and scientific testimony under oath and make a record thereof and the inspector shall report his or her findings and opinion thereon to the Court without prejudice to the right of any party to examine the inspector or any person who has given testimony to the inspector.

Costs

(2) The Court may order that the costs of the inspector be paid in such manner and by such persons as the Court considers appropriate.

PART III

PARTIES, INTERVENORS *AMICUS CURIAE*, CLASS ACTIONS

Parties,
etc.

10. Whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, the board, tribunal, commission or court may permit any person to join as a party, intervenor or *amicus curiae* to the proceeding, appeal or review as the board, tribunal, commission or court may consider appropriate having regard to the purpose of this Act.

Class
actions

11.—(1) In an action under this Act, the Court may by order permit one or more persons to act as representatives of a class of persons where, in the opinion of the Court,

- (a) the claims of the representative party are typical of the claims of the class;
- (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
- (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and

- (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

(2) The Court may provide in the judgment of a class Judgment
action for subsequent determination of the amount and distribution of damages assessed against the defendant.

PART IV

INSTRUMENTS AND REGULATIONS

12.—(1) In this section,

Definitions

“appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;

“instrument” means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule that would permit a person to contaminate or degrade the environment in contravention of any such Act or the regulations made thereunder;

“proper authority” means any authority designated by an Act listed in the Schedule empowered to issue any instrument pursuant to any such Act.

(2) Notwithstanding any other Act, no instrument shall have force and effect unless the proper authority has given notice of the proposed provisions of the instrument by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario and that is in accordance with the other provisions of this section. Notice of
proposed
instrument

(3) Any person may, within thirty days of the giving of notice or within such longer time as may be stated in the notice, Submissions

- (a) make written submissions to the proper authority with respect to the proposed provisions of the instrument; and
- (b) by written notice to the proper authority request a hearing by the appropriate board with respect to the proposed provisions of the instrument.

Idem

(4) Where the proper authority has received notice of a request for a hearing, it shall refer the matter to the appropriate board unless, in the opinion of the authority, the request is not made in good faith or is frivolous or is made only for the purpose of delay.

Idem

(5) Where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority shall give notice for a hearing under subsection (3), together with written reasons therefor.

Where
instrument
may be
issued

(6) Where there is no notice of a request for a hearing under subsection (3), or where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority may issue the proposed instrument,

- (a) where there is no notice of a request for a hearing, not less than ten days after the time for filing such notice has elapsed;
- (b) where the proper authority has declined to refer the matter to the relevant board, not less than twenty days after the time for filing such notice has elapsed.

Review of
instrument

(7) Any person may make an application to the Board requesting the Board to review an existing instrument having regard to the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, especially in the light of technological advances that can be applied in the Province of Ontario and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked.

Preliminary
hearing

(8) The Board shall hold a preliminary hearing to determine whether a *prima facie* case has been made in an application under subsection (7) unless the Board is of the opinion that the application is not made in good faith or is frivolous.

Notice

(9) Where the Board decides not to hold a preliminary hearing under subsection (8), or where the Board decides that a *prima facie* case has not been made under subsection (7), the Board shall give notice of its decision to the person making the application, together with written reasons therefor.

Notice of
hearing

(10) Where the appropriate board holds a hearing under subsection (4) or (7), the appropriate board shall,

- (a) appoint a time and place for the hearing at a city or town convenient to persons likely to be affected by the contamination or degradation;
- (b) cause notice to be given of the hearing,
 - (i) to the proper authority,
 - (ii) to any person who submitted notice to the proper authority under subsection (3),
 - (iii) to any person who submitted notice to the Board under subsection (7),
 - (iv) to any person as the appropriate board may direct, and
 - (v) to the public, by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario.

(11) Any hearing initiated under the provisions of this section shall be conducted according to the rules and procedures that apply to the appropriate board, including the rules and procedures established by this Act. Procedure

(12) Upon the completion of the hearing, the appropriate board may make such recommendations, order or decision in respect of the matter referred to it under this section as the board is empowered to make pursuant to its enabling Act. Recommendations,
etc.

(13) The proper authority may, in an emergency situation, issue an instrument that it is empowered to issue pursuant to an Act listed in the Schedule without complying with the other provisions of this section but, where the authority issues an instrument in an emergency situation, the authority shall take steps to comply with the provisions of this section within sixty days of the date on which the instrument was issued. Emergencies

13.—(1) In 1987 and every fifth year thereafter, the Board shall review all regulations that relate to the quality of the environment having regard to their adequacy to protect the environment and the public trust therein from contamination and degradation, especially in the light of technological advances that can be applied in the Province of Ontario. Review of
regulations

(2) The Board shall give public notice of the review and, during the review, may receive public submissions and evidence to the extent and in the manner that it considers appropriate. Public
notice

Report

(3) Upon completion of the review, the Board shall make a report thereon to the designated Minister, including in the report any recommended changes to the regulations, and the designated Minister, after receiving the report shall then lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Notice of
proposed
regulation

14.—(1) In this section, “regulation-making authority” means any authority designated by an Act listed in the Schedule empowered to make any regulation under any such Act.

Publication

(2) Where a regulation-making authority proposes to make a regulation, it shall cause the proposed regulation to be published in *The Ontario Gazette* at least sixty days before it proposes to file the regulation with the Registrar of Regulations and request briefs or submissions in relation to the proposed regulation.

Effect of
contravention

(3) A regulation filed in contravention of subsection (2) does not come into effect.

PART V

ACCESS TO INFORMATION

Definition

15.—(1) In this section, “designated Minister” means any minister designated by an Act listed in the Schedule to administer and enforce the provisions of any such Act.

Right to
information

(2) Every person has the right to obtain from any designated Minister any available information concerning the quantity, quality or concentration of contaminants emitted, issued, discharged or deposited by any source of contamination or degradation.

Right to
examine

(3) The designated Minister shall permit any person who applies therefor to examine any licence, permit, approval, certificate of approval, provisional certificate of approval, control order or other order, notice of intention to issue a control order, program approval, provisional certificate of approval, notice of violation of an Act listed in the Schedule, and any information in support of any such document, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

Idem

(4) The designated Minister shall permit any person who applies therefor to examine any report on any test, observation, inspection or analysis carried out by or under the Minister's authority relating to any operation subject to an Act

listed in the Schedule under the Minister's jurisdiction, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

(5) Notwithstanding subsections (3) and (4), the designated Minister may refuse an application made under subsections (3) and (4) where, in his or her opinion, the information sought to be disclosed contains,

Where disclosure may be reduced

- (a) information the disclosure of which would be injurious to law enforcement or the conduct of lawful investigations, including investigative techniques or plans for specific lawful investigations;
- (b) information containing personal information respecting an identifiable individual including, without restricting the generality of the foregoing,
 - (i) vital statistics,
 - (ii) background personal information,
 - (iii) medical, criminal, educational or employment records or history,
 - (iv) the personal opinions or views of the individual, unless those opinions or views are given in the course of employment in the public service of the Government of Ontario;
- (c) information of a financial, commercial, scientific or technical sort,
 - (i) the disclosure of which could reasonably be expected to prejudice significantly the competitive position, or interfere significantly with contractual or other negotiations, of a person, group of persons, organization or government institution, or
 - (ii) the disclosure of which could reasonably be expected to result in undue financial loss or gain by a person, group of persons, organization or government institution,

and which, without restricting the generality of the foregoing, includes confidential technology, trade secrets, marketing information, customer lists, advertising budgets and funding sources; or

- (d) records of proposals and recommendations to and deliberations and proceedings of the Executive Council or any committee thereof.

Notice

(6) Where the designated Minister, under subsection (5), refuses an application for disclosure of information, he or she shall, within twenty days, so inform the applicant, together with written reasons thereof, and the Minister shall inform the applicant of the applicant's right of appeal to the Board.

Hearing

(7) Any applicant may, within fifteen days of receipt of a notice under subsection (6), by written notice served upon the designated Minister and the Board, require a hearing before the Board.

Idem

(8) In a hearing under subsection (7), the Board shall take every precaution, including, when appropriate, receiving representations without notice and conducting hearings in private, to avoid disclosure by the Board or any other person of any information the disclosure of which may be refused under this section.

Onus

(9) In a hearing under subsection (7), the onus of establishing that access to the information may be refused shall be on the designated Minister concerned.

Order

(10) At the conclusion of the hearing, the Board may make such order as it considers appropriate, having regard to the provisions of this section, and without restricting the generality of the foregoing, may,

- (a) order the disclosure of all or part of the information sought to be disclosed; or
- (b) where the Board has determined that the information should not be disclosed, order that a non-confidential summary of all or any part of the information be prepared.

Appeal

(11) An appeal lies to the Divisional Court of Ontario from a decision of the Board on a point of law or jurisdiction.

PART VI

PUBLIC INTEREST FUNDING

Definition

16.—(1) In this section, “Fund” means the Environmental Hearing Assistance Fund.

(2) The Lieutenant Governor in Council may establish a Fund to be known as the Environmental Hearing Assistance Fund.

(3) Where a Fund has been established under subsection (2), the moneys required for the purposes of the Fund shall be paid out of the Consolidated Revenue Fund in the fiscal year during which it is established and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

(4) Subject to subsection (5), whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, any party or intervenor who engages in proceedings for the purpose of protecting and conserving the environment may, at any time, make an application for financial assistance to the Board.

(5) A person may apply under subsection (4) only where that person,

- (a) represents an interest representative of significant bodies of opinions that would otherwise not be represented at the proceedings; and
- (b) does not have sufficient financial resources to enable him to adequately represent that interest.

(6) Where a Fund is available and the Board is satisfied financial assistance is appropriate, the Board may order that a sum be paid to the applicant therefor from the Fund in such manner, at such times and in such amount as the Board considers appropriate.

(7) No person is precluded from applying under subsection (4) by reason only that he has previously received financial assistance under subsection (6).

(8) Where it appears to the Board that several parties or intervenors having identical or substantially similar interests have applied for financial assistance from the Board, the Board may consolidate the applications and make such order concerning payment as it considers appropriate.

(9) In considering the sum to be awarded to any applicant, the Board shall have regard to all the attendant costs associated with participating in the proceedings, including,

- (a) legal fees;

- (b) disbursements;
- (c) conduct money;
- (d) witness fees;
- (e) fees for relevant reports and studies; and
- (f) any other cost that is relevant and appropriate to participation in the proceedings.

PART VII

EMPLOYEE RIGHTS

No discipline,
dismissal,
etc.,
by employer

17.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to the appropriate authority an act that contaminates or degrades the environment.

Penalty
for
offence

(2) Where an employer is convicted of an offence under subsection (1), the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with compensation for loss of wages and other benefits to be assessed against the employer.

Offence

(3) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

PART VIII

MISCELLANEOUS

Common law
remedies
preserved

18. Nothing herein contained shall be construed so as to repeal, remove or reduce any existing remedy available at law to any person.

19. Where a conflict appears between any other Act, including the *Environmental Protection Act*, the provision of this Act shall prevail.

Conflict
R.S.O. 1980,
c. 141

20. This Act binds the Crown.

Crown

21. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

22. The short title of this Act is the *Ontario Environmental Rights Act, 1989*.

Short title

SCHEDULE

Conservation Authorities Act

Consolidated Hearings Act, 1981

Drainage Act

Environmental Assessment Act

Environmental Protection Act

Mining Act

Niagara Escarpment Planning and Development Act

Ontario Waste Management Corporation Act, 1981

Ontario Water Resources Act

Pesticides Act

Pits and Quarries Control Act

Planning Act, 1983



Bill 14

Private Member's Bill

2ND SESSION, 34TH LEGISLATURE, ONTARIO

38 ELIZABETH II, 1989

Bill 14



An Act to amend the Planning Act, 1983

Mr. Johnston
(Scarborough West)

1st Reading May 15th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. "Nuclear weapons material" is defined.

SECTION 2. This adds to the factors that the Minister must consider in carrying out his or her responsibilities under the Act the protection of the public from the possible threat to its health, social fabric and environment inherent in the production of nuclear weapons material.

SECTION 3. Self-explanatory.

SECTION 4. This requires the approval of the Minister and in the case of land in a local municipality, a zoning by-law properly passed by the Council of that municipality before a person is entitled to establish or convert a facility for or to the production of nuclear weapons material on any parcel of land in Ontario.

SECTION 5. Section 66 of the Act makes it an offence to contravene certain provisions, with maximum fines on conviction of \$20,000 for a first offence and \$10,000 for each day that a contravention continues after the first conviction. The comparable fines for a corporation are \$50,000 and \$25,000 respectively. Section 5 of the Bill makes this provision apply in respect of a person contravening section 4 of the Bill.

Bill 14**1989****An Act to amend the Planning Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Planning Act, 1983*, being chapter 1, as amended by the Statutes of Ontario, 1989, chapter 5, section 1, is further amended by adding thereto the following clause:

- (ga) “nuclear weapons material” means any item of weaponry, munitions, equipment or specialized supplies or services intended for use primarily in the production, transportation or testing of nuclear weapons or associated equipment or in the deployment of nuclear weapons.

2. Section 2 of the said Act, as amended by the Statutes of Ontario, 1989, chapter 5, section 2 is further amended by adding thereto the following clause:

- (k) the protection of the public from the possible threat to its health, social fabric and environment inherent in the production of nuclear weapons material.

3. Section 16 of the said Act is amended by adding thereto the following subsection:

- (2) Every official plan shall be deemed to include a provision that no new facilities shall be established for and no facilities shall be converted to the production of nuclear weapons material.

Deemed
provision

4. The said Act is amended by adding thereto the following section:

45a. Unless otherwise approved by the Minister and in the case of land in a local municipality also authorized by a by-law in force under section 34, no person shall establish or convert a facility for or to the production of nuclear weapons material on any parcel of land in Ontario.

Nuclear
weapons
material
production
restricted

5. Subsection 66 (1) of the said Act is amended by inserting after “45” in the first line “45a”.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Planning Amendment Act, 1989*.

Bill 15

An Act to amend the Barristers Act

The Hon. I. Scott
Attorney General



1st Reading November 10th, 1987

2nd Reading

3rd Reading

Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTES

SECTIONS 1 and 2. The provisions repealed provide for the appointment of Queen's counsel and their precedence in the courts.

SECTION 3. The common law office of Queen's counsel and the use of the title in the practice of law in Ontario are abolished.

Bill 15

1989

An Act to amend the Barristers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of the *Barristers Act*, being chapter 38 of the Revised Statutes of Ontario, 1980, is repealed.

2. Subsection 3 (3) of the said Act is repealed.

3. The said Act is amended by adding thereto the following sections:

4.—(1) The office of Her Majesty's counsel learned in the law, or Queen's counsel, is abolished. Q.C.'s
abolished

(2) All letters patent appointing members of the bar of Ontario to be Her Majesty's counsel learned in the law are cancelled. Patents
cancelled

5.—(1) No person shall represent himself or herself to be one of Her Majesty's counsel learned in the law, or Queen's counsel, or other like designation, in the practice of law in Ontario. Use of
designation

(2) Subsection (1) comes into force on the 1st day of July, 1988. Effective
date

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. The short title of this Act is the *Barristers Amendment Act, 1989*. Short title

Bill 16

An Act to provide for the Conversion of Technologies and Skills used in the Nuclear Weapons Industry to Civilian Uses

Mr. Johnston
(Scarborough West)

1st Reading May 15th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to prepare for the termination of contracts for the production, repair, modification, storage or handling of materials used for nuclear weapons by encouraging the conversion of technologies and skills developed or used in those nuclear weapons contracts to projects that serve the civilian sector and by preparing for the employment of individuals whose jobs may be lost by the termination of those nuclear weapons contracts.

The Bill requires a company that enters into or has a nuclear weapons contract to establish a committee to assist in the preparation for conversion of the plant to civilian purposes and in the retraining of employees. The committees are to be composed of equal numbers of representatives of the company and of the employees and in some circumstances of non-voting representatives from the community.

The Bill provides for benefits to be paid to employees who lose their jobs as a result of the termination of a nuclear weapons contract.

A company that enters into or has a nuclear weapons contract is required to set up a fund to carry out the purposes of the Bill and to put in that fund annually 2.5 per cent of its gross revenue from that contract in that year. Companies and committees are also to seek additional sources of funding to carry out the purposes of the Bill.

The Bill gives the Minister discretion to assist committees and companies in preparing for and carrying out conversion plans and to assist them financially in carrying out their purposes.

The Bill makes it an offence to contravene any provision of the Act and the maximum penalty for a contravention is set at \$10,000 for persons other than corporations and at \$100,000 for corporations.

Bill 16**1989**

**An Act to provide for the Conversion
of Technologies and Skills used in the
Nuclear Weapons Industry to Civilian Uses**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“committee” means an economic conversion planning committee established under section 3;

“conversion plan” means a plan established under section 4;

“facility” means a facility where a nuclear weapons contractor produces, repairs, modifies, stores or handles nuclear weapons material in Ontario;

“fund” means a fund established under section 7;

“Minister” means the Minister of Industry, Trade and Technology;

“nuclear weapons contract” means a contract under which a corporation, agency or other establishment agrees to produce, repair, modify, store or handle nuclear weapons material in Ontario;

“nuclear weapons contractor” or “contractor” means a corporation, agency or other establishment that is engaged in or enters into a nuclear weapons contract;

“nuclear weapons material” means any item of weaponry, munitions, equipment or specialized supplies or services intended for use primarily in the production, transportation or testing of nuclear weapons or associated equipment or in the deployment of nuclear weapons.

Economic
conversion
program

2. A nuclear weapons contractor shall establish and maintain programs in accordance with this Act to prepare for the termination of its nuclear weapons contract by encouraging the conversion of technologies and skills developed or used in that contract to projects that serve the civilian sector and by preparing for the employment of individuals whose jobs may be lost by the termination of that contract.

Economic
conversion
planning
committee
established

3.—(1) A nuclear weapons contractor shall establish an economic conversion planning committee at each of its facilities forthwith upon entering into a nuclear weapons contract and shall cause it to be maintained thereafter.

Idem

(2) Where a nuclear weapons contract has been entered into before this Act comes into force, the contractor shall establish the economic conversion planning committee forthwith upon the coming into force of this Act.

Composition

(3) A committee shall be composed of not fewer than six members, with at least half of the members representing the employees at the facility and the remaining members representing the contractor.

Idem

(4) The members representing the employees at the facility shall be selected from time to time,

(a) by the union bargaining units if the employees or some of them are represented by one or more union bargaining units; or

(b) by representatives democratically elected by the employees if none of them are represented by a union bargaining unit.

Community
represent-
atives

(5) The Minister shall appoint as non-voting members of a committee not more than three persons who live in the municipality in which a facility is located and whose appointments are approved by the municipal council.

Office
space

(6) A nuclear weapons contractor shall provide free of charge to its committee whatever office space, furniture and office supplies that the committee reasonably needs to carry out its functions.

Committee
work

(7) A nuclear weapons contractor shall allow members of the committee to attend meetings and carry on their duties for the committee during the working day and any time spent for the committee shall be computed as working time for the purposes of computing remuneration and benefits.

4.—(1) It is the function of a committee and it has the power to, Functions
of
committee

- (a) develop and review a comprehensive plan,
 - (i) for converting the facility to productive activities that are acceptable to the contractor and not related to nuclear weapons purposes,
 - (ii) for providing the benefits required by this Act for those employees who lose their jobs as a result of the termination of the nuclear weapons contract, and
 - (iii) for assisting those employees who will not be employed by the contractor after the conversion in finding reasonable alternative employment;
- (b) oversee the implementation of the plan described in clause (a) when the nuclear weapons contract is terminated or completed;
- (c) ensure that the facility provides occupational retraining and re-employment counselling services, or ensure that such retraining and services are provided by an agency outside the facility, for all employees whose jobs are lost, whether temporarily or permanently, as a result of the termination or completion of a nuclear weapons contract;
- (d) assist the contractor in seeking outside sources of funding, as needed, to carry out the purposes of this Act; and
- (e) invest any money held in the fund in investments approved under the *Trustee Act*, and allocate that money in the manner provided for under this Act.

R.S.O. 1980,
c. 512

(2) In developing a conversion plan, the committee shall attempt to maximize the extent to which the personnel required for the efficient operation of the converted facility can be drawn from personnel employed by the facility before the conversion. Conversion
plans

5.—(1) If a committee is not able to agree on a conversion plan, the committee shall make a report to the Minister containing the recommendations of the representatives of the employees and of the contractor and the opinions of any representatives of the community. Where no
agreement

Minister
to decide

(2) If the Minister receives a report under subsection (1), he or she shall assist the committee, and where the Minister determines after such assistance that the committee is unable to agree on a conversion plan, the Minister shall assist the committee in whatever way he or she considers appropriate in formulating and carrying out a plan for providing the benefits required under section 6 and assisting employees in obtaining alternative employment.

Benefits
to
employees

R.S.C. 1985,
c. U-1

6. If an employee temporarily or permanently loses a job as a result of the termination of a nuclear weapons contract and the employee is eligible to receive benefits under the *Unemployment Insurance Act* (Canada), the contractor shall pay from the fund to that employee a benefit that when combined with the benefit under the *Unemployment Insurance Act* (Canada) is sufficient to ensure that the employee maintains an income at a level equal to 90 per cent of the employee's annual salary or wages immediately preceding the loss.

Money
for plan

7.—(1) A nuclear weapons contractor shall establish a fund to assist in carrying out a conversion plan and shall pay into the fund annually an amount equal to 2.5 per cent of the contractor's gross revenue from the contract for that year.

Idem

(2) A contractor, with the assistance of the committee, shall attempt to obtain whatever additional money for the fund it considers necessary to carry out the conversion plan.

Management
of fund

(3) The committee shall manage the fund.

Allocation
of money

(4) If there is not enough money in a fund to properly carry out a conversion plan, the committee shall apply what money there is in the fund first for providing the benefits to employees required under section 6, second for assisting employees who lose their jobs in retraining and in obtaining alternative employment, and third in financing any retooling of the facility required to carry out the conversion plan.

Idem

(5) If, after the assistance of the Minister, a committee is unable to agree on a conversion plan, it shall apply the money in the fund first for providing the benefits to employees required under section 6 and second for assisting employees who lose their jobs in retraining and in obtaining alternative employment.

Minister
to assist

8. The Minister may offer whatever assistance he or she considers appropriate to a committee or a contractor, including, without limiting the generality of the foregoing,

- (a) developing and coordinating information concerning,
 - (i) critical issues that should be addressed in formulating a conversion plan,
 - (ii) organizations and individual consultants who might be of assistance to committees in formulating a conversion plan,
 - (iii) the issues involved in the retraining of personnel,
 - (iv) the requirements of programs for retraining of various classes of personnel, and
 - (v) programs that are available for the retraining of various classes of personnel;
- (b) providing financial assistance by way of a grant or a loan to supplement a fund;
- (c) assisting a committee and a contractor in carrying out the conversion plan.

9.—(1) A nuclear weapons contractor shall cause its committee to report to the Minister concerning the development and implementation of its plan within one year after the committee is established and yearly thereafter.

Report to
Minister

(2) If, after receiving a report, the Minister is not satisfied with the progress of a committee, the Minister shall assist the committee in whatever way he or she considers appropriate in carrying out its functions.

Minister
to help

10.—(1) A nuclear weapons contractor shall provide to the Minister upon entering into a nuclear weapons contract and annually thereafter such information concerning the nuclear weapons contract as the Minister may require.

Report on
contract

(2) Where a nuclear weapons contract has been entered into before this Act comes into force, the contractor shall provide the information required under subsection (1) forthwith after the coming into force of this Act and annually thereafter.

Transition

11. No action shall be instituted against a member of a committee for an act done in good faith in the execution or intended execution of the person's duty or for an alleged

Protection
from
liability

neglect or default in the execution in good faith of the person's duty.

Offence

12.—(1) A person who contravenes a provision of this Act and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Idem

(2) The maximum fine that may be imposed on a corporation is \$100,000 and not as provided in subsection (1).

Commence-
ment

13. This Act comes into force on the day it receives Royal Assent.

Short title

14. The short title of this Act is the *Nuclear Weapons Economic Conversion Act, 1989*.

Bill 17

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics



1st Reading May 17th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide authority for borrowing \$2,600,000,000 for the Consolidated Revenue Fund. The principal borrowings authorized under the *Ontario Loan Act* in recent years have been from the following sources:

1. Canada Pension Plan
2. Teachers' Superannuation Fund
3. The public capital market

The Bill provides that any unused borrowing authority will expire on September 30, 1990.

Bill 17

1989

**An Act to authorize the Raising of Money on the
Credit of the Consolidated Revenue Fund**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$2,600,000,000.

Loans
authorized

R.S.O. 1980,
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act, 1983* but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

1983, c. 84

2. No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made on or before the 30th day of September, 1990.

Limitation

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Ontario Loan Act, 1989*.

Short title

Bill 17

(Chapter 35
Statutes of Ontario, 1989)

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 20th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989



Bill 17

1989

**An Act to authorize the Raising of Money on the
Credit of the Consolidated Revenue Fund**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$2,600,000,000.

Loans
authorized

R.S.O. 1980,
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act, 1983* but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

1983, c. 84

2. No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made on or before the 30th day of September, 1990.

Limitation

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Ontario Loan Act, 1989*.

Short title



Bill 18

An Act to amend the Ontario Municipal Improvement Corporation Act

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics

1st Reading May 17th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to remove the borrowing limitation on the Corporation contained in section 14 of the Act in order to allow the Corporation to borrow Canada Pension Plan funds to offer to school boards as announced by the Treasurer in the Budget.

Bill 18**1989**

**An Act to amend the
Ontario Municipal Improvement Corporation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 (1) of the *Ontario Municipal Improvement Corporation Act*, being chapter 349 of the Revised Statutes of Ontario, 1980, is amended by striking out “and to section 14” in the second line.

2. Section 14 of the said Act is repealed.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Ontario Municipal Improvement Corporation Amendment Act, 1989*. Short title

Bill 18

*(Chapter 57
Statutes of Ontario, 1989)*

An Act to amend the Ontario Municipal Improvement Corporation Act

The Hon. R. Nixon
Treasurer of Ontario and Minister of Economics



<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 20th, 1989
<i>3rd Reading</i>	November 22nd, 1989
<i>Royal Assent</i>	November 23rd, 1989

Bill 18**1989**

**An Act to amend the
Ontario Municipal Improvement Corporation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 (1) of the *Ontario Municipal Improvement Corporation Act*, being chapter 349 of the Revised Statutes of Ontario, 1980, is amended by striking out “and to section 14” in the second line.

2. Section 14 of the said Act is repealed.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Ontario Municipal Improvement Corporation Amendment Act, 1989*. Short title

Bill 19

An Act to amend the Power Corporation Act

The Hon. R. Wong
Minister of Energy



1st Reading May 17th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill imposes the debt guarantee fee announced in the Treasurer's Budget to require Ontario Hydro to pay fees to the Province in respect of guarantees given or advances made by the Province. This provision applies to outstanding as well as future debt. The fees will be paid in accordance with the regulations that may be made under the proposed subsection 55a (3).

Bill 19

1989

An Act to amend the Power Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

55a.—(1) The Corporation, pursuant to the regulations Fees re: debt made under this section, shall pay annually to the Treasurer of Ontario fees,

(a) in respect of guarantees given by the Lieutenant Governor in Council under this Act; and

(b) in respect of sums advanced or applied under section 47.

(2) Subsection (1) applies in respect of guarantees given Application and sums advanced or applied before or after the coming into force of this section.

(3) The Lieutenant Governor in Council may make Regulations regulations respecting the calculation of the fees referred to in subsection (1) and respecting the manner in which, and the time at which, they are to be paid.

2. This Act comes into force on the day it receives Royal Commence- Assent. ment

3. The short title of this Act is the *Power Corporation Short title Amendment Act, 1989.*



Bill 19

*(Chapter 36
Statutes of Ontario, 1989)*

An Act to amend the Power Corporation Act

The Hon. R. Wong
Minister of Energy

<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989



Bill 19

1989

An Act to amend the Power Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

55a.—(1) The Corporation, pursuant to the regulations Fees re: debt made under this section, shall pay annually to the Treasurer of Ontario fees,

- (a) in respect of guarantees given by the Lieutenant Governor in Council under this Act; and
- (b) in respect of sums advanced or applied under section 47.

(2) Subsection (1) applies in respect of guarantees given Application and sums advanced or applied before or after the coming into force of this section.

(3) The Lieutenant Governor in Council may make Regulations regulations respecting the calculation of the fees referred to in subsection (1) and respecting the manner in which, and the time at which, they are to be paid.

2. This Act comes into force on the day it receives Royal Commence-
Assent. ment

3. The short title of this Act is the *Power Corporation* Short title
Amendment Act, 1989.

Bill 20

An Act to provide for the Payment of Development Charges

The Hon. J. Eakins
Minister of Municipal Affairs



1st Reading May 17th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The *Planning Act, 1983* currently permits municipalities to impose lot levies on plans of subdivision, and on consents to sever land, to cover some of the costs to municipalities of servicing the resultant growth. The purpose of the Bill is to permit both municipalities and school boards to impose development charges on all types of development that will increase the need for municipal services or school facilities. The Bill also provides authority for agreements between owners and municipalities to allow owners under certain conditions to develop their land earlier than the servicing plans of the municipalities would otherwise permit. Municipalities would then reimburse those owners for their additional costs from development charges subsequently received from other owners of land benefiting from those services.

The principal provisions of the Bill are as follows:

PART I — Development charges

Municipalities may pass by-laws imposing development charges, on types of development specified in the by-law, for the municipal services specified. Development charges could not be imposed on expansions of existing dwelling units, or on the creation of additional units in existing residential buildings, if done in accordance with the regulations. Also, development charges could not be imposed with respect to certain local services which are normally installed by the person developing the land.

Procedures are established for passing development charge by-laws and for appealing them to the Ontario Municipal Board. The Board could lower or repeal development charges, but not increase them. If an appeal is successful, municipalities would be required to refund the charges already paid.

Development charge by-laws would expire after five years. Municipalities could pass new by-laws before this occurred.

Owners may complain to municipal councils regarding errors in the calculation of development charges and may appeal council decisions to the Ontario Municipal Board.

A development charge must be paid before a building permit is issued, except in specified circumstances. Municipalities may agree to permit owners to provide services in lieu of paying development charges.

Development charges are generally to be collected by lower tier municipalities, although they may be collected by upper tier municipalities as well.

Development charges may be registered as liens on lands subject to them.

Unpaid development charges are to be added to municipal tax rolls and collected as taxes.

Municipalities may give owners a credit for services installed under existing *Planning Act, 1983* provisions, and under other specified legislation.

Municipalities are to place development charge funds received in separate reserve funds.

Municipalities must pay interest on refunds of development charges.

PART II — Front-end payment

Municipalities may enter into agreements with owners who wish to accelerate development of their lands, and to have those owners pay municipalities for the installation of water, sanitary and storm sewers, and roads required to accelerate development, to collect the extra costs from other owners who subsequently benefit from those services, and

to reimburse the front-ending owners from development charges subsequently paid by the other benefiting owners.

Owners are to be given notice of front-end agreements and to be permitted to appeal them to the Ontario Municipal Board.

Agreements may be registered on land benefiting from them, and municipalities may enforce them against owners and subsequent owners.

Municipalities may enforce agreements against owners of land benefiting from services installed under the agreements.

PART III — Education development charges

School boards may establish by by-law an education development charge to finance all or part of the local share of the costs of new schools or additions to schools required because of growth. The education development charge may apply to residential and non-residential development.

Notice provisions and appeal procedures are similar to those contained in Part II.

The Bill also provides for the collection of the education development charge by the municipality. An education development charges account shall be established in respect of the money collected under the charge to be used for an approved capital project.

If two or more school boards, which share an area of jurisdiction, pass a by-law to impose an education development charge upon the same area, the money collected is to be placed in a joint account to be used by the boards as directed by the Minister of Education.

Withdrawals from an education development charges account can only be made for school construction projects which have the approval of the Minister of Education and have been recognized for capital grant purposes.

PART IV — General

Existing by-laws providing for development charges are to terminate within specified periods.

No new development charges may be imposed under the *Planning Act, 1983*, but existing agreements providing for development charges are to remain in effect.

Existing referrals or appeals under the *Planning Act, 1983* regarding development charges are to be continued and disposed of under the *Planning Act, 1983*.

Agreements under the subdivision and consent provisions of the *Planning Act, 1983* are not to be affected by this Bill, except as those agreements apply to charges related to development.

Bill 20

1989

An Act to provide for the Payment of Development Charges

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“area municipality” means,

- (a) a town, other than a separated town, township or village in a county, and
- (b) a city, town, village or township in a regional, metropolitan or district municipality;

1983, c. 1

“benefiting area” means an area designated for development in an official plan approval under the *Planning Act, 1983* and defined by a map, plan or legal description in a front-ending agreement as an area that will be serviced by or receive a benefit from the construction of a front-end service;

“capital cost” means costs incurred or proposed to be incurred by a municipality,

- (a) to acquire or improve land,
- (b) to acquire, construct or improve buildings, structures or facilities, and
- (c) to undertake studies in connection with any of the matters in clause (a) or (b),

required for the provision of services, including interest on borrowing for that part of expenditures made under clause (a) or (b) that is growth-related, but does not include costs incurred or proposed to be incurred to acquire vehicles, furniture, office equipment, supplies, inventory or similar items;

“development charge” means a charge imposed with respect to growth-related net capital costs against land under a by-law passed under section 3;

“development charge by-law” means a by-law passed under section 3;

“front-end payment” means a payment made by an owner, that may be in addition to a development charge that such owner is required to pay under a development charge by-law, in an amount agreed upon by the owner and munic-

ipality, to cover the net capital cost of any or all of the front-end services required to enable the land to be developed by the owner;

“front-end services” means water supply services, sanitary sewer services, storm sewer services and road services, for which a development charge may be imposed;

“front-ending agreement” means an agreement made under section 20;

“growth-related net capital cost” means the portion of the net capital cost of services that is reasonably attributable to the need for such net capital cost that results or will result from development in all or a defined part of the municipality;

“municipality” means a city, town, village, township, improvement district or county or a regional, metropolitan or district municipality;

“Municipal Board” means the Ontario Municipal Board;

“net capital cost” means the capital cost less capital grants, subsidies and other contributions made to the municipality or that the council of the municipality anticipates will be made, in respect of the capital cost;

“owner” means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

“prescribed” means prescribed by regulations made under this Act;

“services” means services designated in a development charge by-law;

“upper tier municipality” means a county or a regional, metropolitan or district municipality.

2. The Minister of Municipal Affairs is responsible for the administration of Parts I, II and IV and the Minister of Education is responsible for the administration of Part III.

Adminis-
tration

PART I

DEVELOPMENT CHARGES

3.—(1) The council of a municipality may pass by-laws for the imposition of development charges against land if the

By-laws
respecting
development
charges

development of the land would increase the need for services in respect of that land and the development requires,

- 1983, c. 1
- (a) the approval of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*;
 - (b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;
 - (c) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;
 - (d) a consent under section 52 of the *Planning Act, 1983*;
 - (e) the approval of a description under section 50 of the *Condominium Act*; or
 - (f) the approval of an application under the *Building Code Act* to permit the erection of a building or structure.
- R.S.O. 1980, c. 84
- R.S.O. 1980, c. 51

Exceptions

(2) Subsection (1) does not apply in respect of an approval mentioned in clauses (1) (a) to (f) that would have the effect only,

- (a) of permitting the enlargement of an existing dwelling unit; or
- (b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.

Mandatory provisions

- (3) A by-law passed under subsection (1) shall,
- (a) designate those uses of land, buildings or structures upon which a development charge shall be imposed;
 - (b) designate the areas within which a development charge shall be imposed;
 - (c) establish the development charge, or the schedule of development charges, to be imposed in respect of the designated uses of land, buildings or structures; and
 - (d) designate services for which a development charge may be imposed.

(4) A by-law passed under subsection (1) may,

Other provisions

- (a) provide for the indexing of development charges based on one of the prescribed indices; and
- (b) provide that a development charge shall be payable in money or by the provision of services or by a combination of both as may be agreed upon under subsection 9 (4) by the municipality and the owner.

(5) No land, except land used for the purpose of an elementary or secondary school under the *Education Act* or land owned by and used for the purposes of a municipality, is exempt from a development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*.

Limited exemption
R.S.O. 1980,
cc. 129, 31

(6) No development charge may be imposed with respect to,

Restriction on development charges

- (a) local services installed at the expense of the owner within a plan of subdivision as a condition of approval under section 50 of the *Planning Act*, 1983; c. 1 1983;
- (b) local services installed at the expense of the owner as a condition of approval under section 52 of the *Planning Act*, 1983; or
- (c) local connections to water mains, sanitary sewers and storm sewers.

4.—(1) Before passing a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the council,

Public meeting

- (a) shall hold at least one public meeting;
- (b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and
- (c) shall ensure that sufficient information is made available at the meeting to enable the public to understand generally the development charges proposal.

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giving of notice have been complied with and any person who

Right to be heard

attends the meeting may make representations in respect of the proposed development charges.

Notice of
by-law

(3) If the council passes a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the clerk of the municipality shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4).

Appeal

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

Timing of
notice

(5) For the purposes of subsection (4), the written notice shall be deemed to be given,

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by personal service, on the day that service of all required notices is completed; or
- (c) where notice is given by mail, on the day that the mailing of all required notices is completed.

Record

(6) The clerk of a municipality who receives a notice of appeal shall compile a record which shall include,

- (a) a copy of the by-law certified by the clerk;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

Notice and
record to
O.M.B.

(7) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Board may require in respect of the appeal.

(8) An affidavit or declaration of the clerk of the municipality that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein.

Affidavit,
declaration
conclusive
evidence

(9) The Municipal Board shall hold a hearing of which notice shall be given to such persons or organizations and in such manner as the Board may determine.

Hearing

(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal.

Early
dismissal of
appeal

(11) The Municipal Board may,

Determi-
nation by
O.M.B.

(a) dismiss the appeal; or

(b) order the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Board's order.

(12) Despite subsection (11), the Municipal Board may not order the amendment of a by-law so as to,

Restrictions
on
amendments

(a) increase a development charge imposed by the by-law; or

(b) alter the term of the by-law.

5.—(1) A development charge by-law comes into force on the day it is passed.

When by-law
effective

(2) If the Municipal Board orders the council of a municipality to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law was passed.

Retroactive
repeal

(3) If a by-law is repealed in whole or in part under subsection 4 (11), the municipality shall immediately refund all development charges paid under that part of the by-law that is repealed.

Refund

(4) If the Municipal Board orders the council of a municipality to amend a by-law in whole or in part, that part of the by-law that is amended ceases to be in force, and the amend-

Retroactive
amendments

ment shall be deemed to have come into force on the day the by-law that is being amended was passed.

Refunds

(5) If a by-law is amended in whole or in part under subsection 4 (11), the municipality shall immediately refund the difference between the development charge paid under that part of the by-law that is amended and the development charge required to be paid under the amendment.

Restrictions on appeal

(6) A repeal or amendment made under subsection 4 (11) is not subject to appeal under subsection 4 (4).

Notice of by-law

(7) A municipality shall give notice of the particulars of a development charge by-law that is in force in the manner and to the persons prescribed.

Expiration of by-law

6.—(1) A development charge by-law expires five years after the date it is passed.

Idem

(2) Despite subsection (1), the council of a municipality may,

(a) provide in the by-law for a term of less than five years; or

(b) repeal the by-law.

Term of by-law

(3) Amendments to a by-law by council under subsection 4 (11) or 7 (1) do not affect the term of the by-law.

New by-law

(4) Subject to subsections (5), (6) and (7), the council of a municipality in which a development charge by-law is in force may pass a new development charge by-law.

Review of policies

(5) Before passing a new development charge by-law, the council shall conduct a review of the development charge policies of the municipality.

Public meeting

(6) In conducting a review under subsection (5), council shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the municipality.

Procedures

(7) Sections 4 and 5 apply with necessary modifications to the passing of a by-law under subsection (4).

Amendments

7.—(1) The council of a municipality which has passed a development charge by-law may amend the by-law.

(2) Sections 4 and 5 apply with necessary modifications to an amendment of a development charge by-law under subsection (1). Procedures

8.—(1) An owner may complain in writing to the council of the municipality that, Complaints

- (a) the calculation of the development charge imposed was based on an incorrect number of units;
- (b) the amount credited to an owner under section 13 is incorrect;
- (c) the amount of a previous development charge being credited under section 14 is incorrect; or
- (d) there was an error in the application of the development charge by-law.

(2) The complaint shall state the name and address where notices can be given to the complainant and shall state the reasons for the complaint. Idem

(3) Council shall give the complainant the opportunity to make representations and notice of the hearing shall be mailed to the complainant by the clerk not less than fourteen days before the date the complaint is to be considered. Hearing

(4) After hearing the evidence and submissions of the complainant, council may, Determination by council

- (a) confirm the development charge; or
- (b) amend the development charge to the extent that, in the opinion of council, a review of any or all of the matters in subsection (1) justifies such an amendment.

(5) The clerk of the municipality shall, not later than fifteen days after the day a decision is made by council, give written notice of the decision by mail to the complainant, and the notice shall specify the last day for filing an appeal, which date shall be no earlier than twenty days after the date the letter is mailed. Notice of decision

(6) The complainant may appeal the decision of council to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the reasons for the appeal. Appeal

Record

(7) The clerk of the municipality who receives a notice of appeal under subsection (6) shall compile a record which shall include,

- (a) a copy of the development charge by-law certified by the clerk;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice have been complied with; and
- (c) the original or a true copy of all written submissions and material in support of the complaint.

Notice and
record to
O.M.B.

(8) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information and material that the Board may require in respect of the appeal.

Parties

(9) The parties to the appeal are the complainant and the municipality.

Notice of
hearing

(10) The Municipal Board shall hold a hearing of which notice shall be given to the parties to the appeal.

Early
dismissal

(11) Despite subsection (10), the Municipal Board may, where it is of the opinion that the complaint set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal.

Decision by
O.M.B.

(12) The Municipal Board may make any decision that could have been made by the council of the municipality.

Refund

(13) If the development charge is amended by the council or by the Municipal Board, the municipality shall immediately refund the difference between the development charge paid that was in dispute and the amount of the charge required by council or the Municipal Board to be paid.

Charge to be
paid before
building
permit issued

9.—(1) Despite any other Act, a building permit shall not be issued in respect of the erection of a building or structure on land to which a development charge by-law applies unless the development charge has been paid.

Exception

(2) Despite subsection (1), a municipality may, in a development charge by-law, provide that a development charge with respect to water supply services, sanitary sewer services,

storm sewer services and road services shall be payable, with respect to an approval of a plan of subdivision under section 50 of the *Planning Act, 1983*, immediately upon entering into the subdivision agreement. 1983, c. 1

(3) Despite subsections (1) and (2), a municipality may enter into an agreement with an owner providing for the payment of all or any portion of the development charge on dates later than the issuing of a building permit or the entering into of a subdivision agreement. Exceptions in agreements

(4) Despite subsections (1) and (2), a municipality may by agreement permit an owner to provide services in lieu of the payment of all or any portion of a development charge. Services in lieu of payment

(5) A municipality that has entered an agreement under subsection (3) may charge interest, at a rate stipulated in the agreement, on that part of the development charge not paid in accordance with subsection (1). Interest

10.—(1) If a development charge is imposed by an upper tier municipality, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the charge has been imposed, and when the charge is due. Upper tier municipalities

(2) The treasurer of the area municipality shall collect the charge imposed by the upper tier municipality when due and shall, unless an extension of time is agreed to by the upper tier municipality, remit the amount of the charge to the treasurer of the upper tier municipality on or before the 25th day of the month following the month in which the charge is received by the area municipality. Collection of development charges

(3) Despite subsection (2), a development charge imposed by an upper tier municipality under subsection 9 (2) or (3) may be collected by the upper tier municipality. Idem

(4) The treasurer of an upper tier municipality that has collected a development charge under subsection (3) shall certify to the treasurer of the area municipality in which the land is located that the charge has been collected. Certification

(5) If building permits are issued by an upper tier municipality, the chief building official of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that all applicable law within the meaning of the *Building Code Act*, except the payment of development charges, has been complied with. Idem
R.S.O. 1980, c. 51

Idem

(6) The treasurer of the area municipality shall, upon receipt of the certificate under subsection (5) and upon payment of all development charges and education development charges under Part III imposed on the development, immediately certify to the chief building official of the upper tier municipality that all development charges and education development charges have been paid.

Delegation of
collection
powers

(7) If building permits are issued by an upper tier municipality, the upper tier municipality may, if agreed to by the area municipality, collect all development charges and education development charges.

Lien

11.—(1) A municipality that has passed a development charge by-law may register or deposit, as the case may be, a lien or notice thereof on the land upon which a development charge has become payable.

Charge upon
land

(2) The development charge shall, from the date of registration or deposit under subsection (1), be a charge upon the land to which the development charge applies.

Collection

12.—(1) If the development charge or any part thereof imposed by a municipality, other than an upper tier municipality, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

Idem

(2) If the development charge or any part thereof imposed by an upper tier municipality remains unpaid after the due date, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the amount is unpaid and the amount unpaid shall be added to the tax roll of the area municipality and shall be collected as taxes.

Credit for
services

13.—(1) A municipality that permits the provision of services in lieu of the payment of all or any portion of a development charge shall give a credit for an amount equal to the reasonable cost to the owner of providing the services.

Idem

(2) If a municipality and owner enter an agreement that permits an owner to provide services additional to or of a greater size or capacity than is required under a development charge by-law, the municipality may agree to give a credit for an amount up to the reasonable cost to the owner of providing the services.

Idem

(3) A credit given under subsection (2) shall not be charged to a reserve fund established under section 16.

14.—(1) If an owner or a former owner has, before the coming into force of a development charge by-law, paid all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for the amount of the charge paid. Credits
1983, c. 1

(2) If an owner or a former owner has, before the coming into force of a development charge by-law, provided services in lieu of the payment of all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for an amount equal to the reasonable cost to the owner or to the former owner of providing the services. Idem

(3) If an owner is required to pay a charge to a municipality under a by-law passed under section 215 of the *Municipal Act*, section 4 of *The City of Ottawa Act, 1960-61* or section 1 of *The City of Toronto Act, 1961-62*, the municipality shall reduce the development charge payable under the development charge by-law by an amount equal to the charge imposed by that by-law. Idem
R.S.O. 1980,
c. 302;
1960-61,
c. 120;
1961-62,
c. 171

(4) If a conflict exists between the provisions of a development charge by-law and an agreement referred to in subsection (1) or (2), the provisions of the agreement prevail to the extent of the conflict. Conflicts

(5) If a conflict exists between the provisions of a development charge by-law and any other agreement between a municipality and an owner or a former owner with respect to land within the area to which the by-law applies, the provisions of the agreement prevail to the extent that there is a conflict. Idem

15.—(1) If an owner requests two or more approvals described in subsection 3 (1) in respect of land, a municipality shall not levy more than one development charge. Multiple approvals

(2) Despite subsection (1), if an owner requests an approval described in subsection 3 (1) and the owner subsequently requests one or more additional approvals that have the effect of increasing the need for services beyond that generated by the initial approval, a municipality may require the payment of an additional development charge based on the increased need for services. Idem

Reserve fund

16.—(1) Payments received by a municipality under this Part shall be maintained in a separate reserve fund or funds and shall be used only to meet the growth-related net capital costs of those services for which the development charge was imposed.

R.S.O. 1980,
c. 302,
s. 165
applies

(2) Subsections 165 (2), (3) and (4) of the *Municipal Act* apply with necessary modifications to payments received by a municipality under this Part.

Statement of
treasurer

17. The treasurer of the municipality shall, in each year, on or before such date as council may direct, furnish to the council a statement in respect of each reserve fund established under section 15 containing the information prescribed.

Interest

18.—(1) A municipality shall pay interest to persons to whom overpayments are refunded under subsection 5 (3), 5 (5) or 8 (13) calculated in the manner prescribed.

Idem

(2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid.

Idem

(3) The refund shall include the interest owed.

Regulations

19. The Lieutenant Governor in Council may make regulations,

- (a) prescribing, for the purposes of section 3, the manner in which development charges shall be calculated;
- (b) prescribing the number of additional dwelling units and the categories of existing residential buildings for the purposes of clause 3 (2) (b);
- (c) prescribing, for the purposes of section 3, those services for which development charges shall not be imposed;
- (d) prescribing, for the purposes of clause 3 (4) (a), an index or indices that may be used;
- (e) prescribing, for the purposes of subsection 4 (1), the persons that are to be given notice and the manner in which notice is to be given;
- (f) prescribing, for the purposes of subsection 4 (3), the persons and agencies that are to be given notice and the manner and form in which notice is to be given;

- (g) prescribing, for the purposes of subsection 5 (7), the information to be provided in the notice and the persons to whom notice is to be given;
- (h) prescribing, for the purposes of section 13, the manner in which credits shall be calculated;
- (i) prescribing the information to be provided in a statement of the treasurer under section 17;
- (j) prescribing methods of calculating and establishing interest rates under section 18;
- (k) prescribing anything that in Parts I, II and IV of this Act may be prescribed by regulation.

PART II

FRONT-END PAYMENTS

20.—(1) A municipality that has in effect a development charge by-law may enter into a front-ending agreement or agreements with any or all owners within a benefiting area providing for the payment by the owners of a front-end payment. Front-end payment

(2) An agreement entered into under subsection (1) shall contain, Agreement

- (a) a list of the front-end services for which front-end payments shall be made;
- (b) the estimated cost of installing the services;
- (c) the proportion of the front-end payment to be paid by each owner who is a party to the agreement;
- (d) the agreement of the owners to immediately pay to the municipality the actual costs incurred by the municipality in the installation of the services in accordance with the proportions determined under clause (c);
- (e) the agreement of the municipality to immediately reimburse the owners if the actual cost of installing the services is lower than the estimated cost in accordance with the proportions determined under clause (c);

- (f) a description of the benefiting area for each of the services;
- (g) the manner in which the portion of the front-end payment that each owner in the benefiting area, other than the parties to the front-end agreement, is to be calculated; and
- (h) subject to clause (g), the agreement of the municipality to require each owner in the benefiting area, other than an owner who is a party to the agreement, to pay the owner's portion of the front-end payment.

Idem

(3) An agreement under subsection (2) may provide that the front-end payment shall be payable in money, or by the provision of services in lieu thereof, or by a combination of both, as may be agreed upon by the parties.

Idem

(4) An agreement under subsection (2) shall provide the methods by which amounts payable under clause (2) (h) shall be adjusted.

Notice of agreement

21.—(1) The municipality shall give notice by mail of the front-ending agreement to all owners within the benefiting area.

Contents of notice

(2) The notice referred to in subsection (1) shall explain the nature and purpose of the agreement and shall indicate that the agreement can be viewed in the office of the clerk during normal office hours.

Objections

(3) Any owner to whom notice of the agreement is given, except a party to the agreement, may object to the agreement by filing a written objection with the clerk of the municipality within twenty-one days of the date of mailing of the notice of the agreement.

Effective date of agreement

(4) If no objection is filed within twenty-one days, the agreement shall be deemed to have come into effect on the date it was fully executed.

Objections to O.M.B.

(5) If an objection is filed, the clerk shall immediately forward it to the Municipal Board.

Hearing to O.M.B.

(6) The Municipal Board shall hold a hearing and shall confirm the agreement, refuse to confirm the agreement or direct a municipality to make changes to the agreement.

(7) If an objection is filed under subsection (3), the agreement comes into effect when approved by the Municipal Board or, if changes are directed by the Board, when the municipality and the other parties to the agreement have executed the agreement as directed to be changed by the Board.

Effective
date where
objection

(8) The parties to the Municipal Board hearing are the municipality, the other parties to the agreement and the owners who filed written objections within the period referred to in subsection (3).

Parties

22. Section 64 of the *Ontario Municipal Board Act* does not apply to a front-ending agreement or to special accounts established under sections 26 and 27.

O.M.B.
approval not
required
R.S.O. 1980,
c. 347

23. A notice of an agreement entered into under section 20 may be registered against the land in the benefiting area, and subject to the *Registry Act* and the *Land Titles Act*, the municipality,

Registration

R.S.O. 1980,
cc. 445, 230

(a) may enforce the provisions of the agreement against any and all subsequent owners of the lands owned by the parties thereto; and

(b) may enforce the provisions of the agreement made under clauses 20 (2) (g) and (h) and section 25 against any and all owners and subsequent owners of lands in the benefiting area.

24. If a front-ending agreement is in effect, no person shall undertake any development that requires an approval mentioned in subsection 3 (1) within a benefiting area until section 25 has been complied with.

Compliance
necessary

25. A municipality that has entered into a front-ending agreement,

Conditions of
agreement

(a) shall require an owner within a benefiting area, other than a party to the agreement, to pay the owner's portion of the front-end payment as a condition of approval of any development on that portion of the owner's land located within the benefiting area; and

(b) may require all owners in a benefiting area, including owners who are parties to the agreement, to pay the reasonable costs to the municipality of administering the agreement, including the cost to the municipality of consultants and of studies required in preparation of the agreement.

Special
accounts

26.—(1) The municipality shall place all money received from the parties to the front-ending agreement in a special account and shall use the funds in such account only for,

- (a) paying the actual net cost of the installation of the services specified in the agreement; and
- (b) reimbursing to the parties to the agreement any funds remaining in the account after the installation of the services referred to in clause (a).

Idem

(2) The municipality shall provide annually to the parties to the front-ending agreement a statement setting out the particulars of payments made out of the account, the balance remaining in the account and additional payments, if any, that are or will be required from the parties pursuant to the agreement.

Special
account for
section 25
funds

27.—(1) The municipalities shall place money received under section 25 in a special account and shall, immediately upon receipt of the money, pay it over to the parties of the front-ending agreement in the proportions stated in the agreement.

Reimburse-
ment

(2) The municipality shall reimburse the parties to the agreement only at the time of and upon the payment of the money referred to in subsection (1).

Deduction
from
development
charge

(3) Payments made under subsection (1) with respect to services referred to in clause 20 (2) (a) shall be deducted from the amount otherwise payable by an owner pursuant to a development charge by-law.

PART III

EDUCATION DEVELOPMENT CHARGES

Definitions

28. In this Part,

“board” means a board in paragraph 3 of subsection 1 (1) of the *Education Act*, other than,

R.S.O. 1980,
c. 129

- (a) a board established under section 70 of the *Education Act*,
- (b) a board of education for an area municipality in The Municipality of Metropolitan Toronto,
- (c) The Metropolitan Toronto French-Language School Council, and

- (d) The Ottawa-Carleton French-language School Board,

but includes the public sector and the Roman Catholic sector of The Ottawa-Carleton French-language School Board and The Metropolitan Toronto School Board;

“commercial development” means an approval of a development other than a residential development;

“education capital cost” means costs incurred or proposed to be incurred by a board,

- (a) to acquire school facilities,
- (b) to construct, expand, alter or improve school facilities, and
- (c) to undertake studies in connection with any of the matters in clause (a) or (b),

to provide pupil accommodation;

“education development charge” means a development charge imposed under a by-law passed under section 29 respecting growth-related net education capital costs incurred or proposed to be incurred by a board;

“education development charge by-law” means a by-law passed under subsection 29 (1);

“education development charges account” means an account established in accordance with the regulations for money collected under an education development charge by-law;

“growth-related net education capital cost” means the portion of the net education capital cost reasonably attributable to the need for such net education capital cost that is attributed to or will result from development in all or part of the area of jurisdiction of a board;

“net education capital cost” means the education capital cost reduced by any capital grants and subsidies paid or that may be paid to the board in respect of such education capital cost;

“owner” means the owner of the land or a person who has made application for an approval for the development of the land upon which an education development charge is imposed;

“pupil accommodation” means a building to accommodate pupils or an addition or alteration to a building that enables the building to accommodate an increased number of pupils;

“residential development” means an approval of a development that provides residential accommodation;

“school facilities” means a school site in paragraph 53 of subsection 1 (1) of the *Education Act*.

R.S.O. 1980,
c. 129

Education
development
charge by-law

29.—(1) A board may pass by-laws for the imposition of an education development charge against land in the area of jurisdiction of the board, in respect of residential development or residential and commercial development, if there is residential development in the area of jurisdiction of the board that would increase education capital costs and the residential or commercial development requires,

(a) the approval of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*;

(b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;

(c) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;

(d) a consent under section 52 of the *Planning Act, 1983*;

(e) the approval of a description under section 50 of the *Condominium Act*; or

(f) the approval of an application under the *Building Code Act* to permit the erection of a building or structure.

1983, c. 1

R.S.O. 1980,
c. 84

R.S.O. 1980,
c. 51

Exception

(2) Subsection (1) does not apply in respect of an approval mentioned in clauses (1) (a) to (f) that would have the effect only,

(a) of permitting the enlargement of an existing dwelling unit; or

(b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.

(3) A by-law passed under subsection (1) shall,

Contents of
by-law

- (a) designate the categories of residential development and commercial development upon which an education development charge shall be imposed;
- (b) designate those uses of land, buildings or structures upon which an education development charge shall be imposed;
- (c) designate the areas in which an education development charge shall be imposed; and
- (d) in accordance with the regulations, establish the education development charge, or the schedule of education development charges, to be imposed in respect of the designated categories of development and the uses of land, buildings or structures.

(4) A by-law passed under subsection (1) may provide for the indexing of education development charges based on one of the prescribed indices.

Indexing

(5) No land, except land used for the purposes of an elementary or secondary school under the *Education Act* or land owned by and used for the purposes of a municipality, is exempt from an education development charge under a by-law passed under subsection (1) by reason only that the property is exempt from taxation under section 3 of the *Assessment Act*.

Limited
exemption
R.S.O. 1980,
cc. 129, 31

(6) The imposition of an education development charge by a board is subject to the conditions prescribed by the regulations.

Conditions

30.—(1) Before passing an education development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the board,

Public
meeting

- (a) shall hold at least one public meeting;
- (b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and
- (c) shall ensure that sufficient information is made available to enable the public to understand generally the education development charge proposal.

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giv-

Right to be
heard

ing of notice have been complied with and any person who attends the meeting may make representations in respect of the proposed education development charges.

Notice of
by-law

(3) If the board passes an education development charge by-law, other than a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the secretary of the board shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the manner and in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4).

Appeal

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the secretary of the board a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

Timing of
notice

(5) For the purposes of subsection (4), written notice shall be deemed to be given,

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by mail, on the day that the mailing of all required notices is completed; or
- (c) where notice is given by publication and by mail, on the later of the days that publication occurs or mailing is completed.

Record

(6) The secretary of the board who receives a notice of appeal shall compile a record which shall include,

- (a) a copy of the by-law certified by the secretary;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

Notice and
record to
O.M.B.

(7) The secretary of the board shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Municipal Board may require in respect of the appeal.

(8) An affidavit or declaration of the secretary of the board that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein.

Affidavit,
declaration
conclusive
evidence

(9) The Municipal Board shall hold a hearing of which notice shall be given to such persons or organizations and in such manner as the Municipal Board may determine.

Hearing

(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant the opportunity to make representations as to the merits of the appeal.

Early
dismissal of
appeal

(11) The Municipal Board may,

Determi-
nation by
O.M.B.

(a) dismiss the appeal; or

(b) order the board to repeal the by-law in whole or in part or amend the by-law in accordance with the order.

(12) Despite subsection (11), the Municipal Board may not order the amendment of a by-law so as to,

Restriction
on
amendments

(a) increase an education development charge imposed by the by-law; or

(b) alter the term of the by-law.

31.—(1) An education development charge by-law comes into force on the fifth day following the day it is passed or the day specified in the by-law, whichever is later.

When by-law
effective

(2) If the Municipal Board orders a board to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law came into force.

Retroactive
repeal

(3) When a by-law is repealed in whole or in part under subsection 30 (11), the treasurer of the education development charges account shall immediately refund all education development charges paid pursuant to that part of the by-law that is repealed.

Refunds

(4) If the Municipal Board orders a board to amend a by-law in whole or in part, that part of the by-law that is

Retroactive
amendments

amended ceases to be in force and the amendment shall be deemed to have come into force on the date the by-law came into force.

Refunds

(5) If a by-law is amended in whole or in part under subsection 30 (11), the treasurer of the education development charges account shall immediately refund the difference between the education development charge paid pursuant to that portion of the by-law that is amended and the education development charge required to be paid pursuant to the amendment.

Restrictions
on appeal

(6) A repeal or amendment made under subsection 30 (11) is not subject to appeal under subsection 30 (4).

Direct refund

(7) A refund under this section shall be paid to the owner and the treasurer of the education development charges account shall inform the municipal treasurer of the amount of the refund.

Expiration of
by-law

32.—(1) An education development charge by-law expires five years after the date it comes into force.

Idem

(2) Despite subsection (1), a board may,

(a) provide in the by-law for a term of less than five years; or

(b) repeal the by-law.

Concurrent
terms

(3) Despite subsection (1), if an education development charge by-law is in force in respect of an area, the term of an education development charge by-law passed by another board with respect to the same area shall expire on the date of expiration of the first-mentioned by-law.

Change of
term

(4) Where a board repeals its education development charge by-law and another board that has jurisdiction in all or part of the same area has passed a by-law that under subsection (3) would expire on the date of expiration of the first-mentioned by-law, that other board may determine that the by-law shall be in effect for up to five years after the date it comes into force and, where it does so, the board shall give notice of its determination to the same persons and in the same manner as provided under subsection 36 (1).

New
education
development
charge by-law

(5) Subject to subsections (6), (7) and (8), a board that has passed an education development charge by-law that is in force may pass a new education development charge by-law.

(6) Before passing a new education development charge by-law, the board shall conduct a review of the education development charge policies of the board.

Review of
policies

(7) In conducting a review under subsection (6), the board shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the area of jurisdiction of the board.

Public
meeting

(8) Sections 30 and 36 apply with necessary modifications to a by-law under subsection (5).

Idem

33.—(1) A school board may amend an education development charge by-law and the amendment shall be deemed to have come into force on the day the by-law that is being amended came into force and the part of the by-law that is amended ceases to be in force.

Amendments

(2) Sections 30 and 36 apply with necessary modifications to an amendment made under this section.

Idem

34.—(1) An education development charge imposed by a board with respect to a residential development is the amount payable by the owner to the treasurer of the municipality under the education development charge by-law.

Charges

(2) An education development charge imposed by a board with respect to a commercial development is,

Idem,
commercial
development

(a) the amount obtained by applying the prescribed per cent, or a per cent determined by a board that is within a prescribed range of per cents, to the declared value of the building permit; or

(b) the amount on an area, unit or density basis calculated in the manner prescribed.

(3) A building permit shall not be issued in respect of the erection of a building or structure on land to which an education development charge by-law applies unless the development charge has been paid.

Charge to be
paid before
building
permit issued

(4) Despite subsection (1), and subject to subsection (5) and the consent of the Minister of Education, a board may by agreement permit an owner to provide school facilities in lieu of the payment of all or any portion of an education development charge and the board shall advise the treasurer of the

Facilities in
lieu of
payment

municipality in which the land is situate of the amount of the credit.

Necessary
parties

(5) If more than one board has jurisdiction in an area and one or more boards are to receive school facilities under subsection (4), all the boards are required to be parties to the agreement.

Complaints

35.—(1) An owner or board may complain in writing to the council of the municipality in which the land is situate or an owner may complain to the board in respect of territory without municipal organization that,

- (a) the calculation of the education development charge imposed was based on an incorrect number of units;
- (b) there was an error in the application of the education development charge by-law; or
- (c) the amount credited to an owner under subsection 34 (4) is incorrect.

Procedures
adopted

(2) Subsections 8 (2) to (13) apply with necessary modifications to a complaint under subsection (1).

Refunds

(3) If a final determination of a complaint has been made and a refund is due to the owner, the treasurer of the education development charges account shall pay the amount of the refund to the treasurer of the municipality who shall reimburse the owner.

Idem

(4) If a final determination of a complaint has been made and a refund is due to the school board, the treasurer of the municipality shall pay the amount of the refund to the treasurer of the education development charges account.

Distribution
of by-law

36.—(1) A board that passes a by-law under subsection 29 (1) shall submit to the treasurer of each municipality all or part of which is made subject to an education development charge a copy of the by-law and provide a copy to the secretary of any other board that has jurisdiction in the same or part of the same area of the board that passed the by-law and forward a copy to the Minister of Education.

Special
account

(2) An education development charges account shall be established on or before the fifth day following the enactment of a by-law under subsection 29 (1).

Territory
without
municipal
organization

(3) Where the area of jurisdiction of a board includes territory without municipal organization, all or part of which is

made subject to an education development charge, the board shall exercise the powers and duties of a municipal council for such territory in respect of collecting the charge and the officers of the board have the same powers and duties as similar officers in a municipality.

(4) Where an education development charge is imposed by a board, the treasurer of the municipality or board, as the case requires, shall collect the charge imposed when due and, on or before the 25th day of the month next following the month in which the charge is collected, shall deposit the amount of the charge in the education development charges account established in respect of the by-law under which the charge is imposed. Collection of charge

(5) On or before the fifth day of the month following a month in which a deposit is made under subsection (4), the treasurer of the municipality shall forward to the treasurer of the board or the treasurer of the board shall prepare a statement setting out the prescribed information in respect of the period that began on the 26th day of the month before the preceding month and that ended on the 25th day of the preceding month. Statement

(6) If two or more boards have imposed an education development charge by-law upon an area, the statement mentioned in subsection (5) shall be prepared in respect of the money collected and forwarded to the treasurer of each board that passed a by-law under which the money was collected. Idem

37.—(1) A board that has passed an education development charge by-law may register or deposit, as the case requires, a lien or notice thereof, upon the land with respect to which the education development charge applies. Lien

(2) The education development charge shall, from the date of registration or deposit, be a charge upon the land of the owner to which the education development charge applies. Charge upon land

38. If an education development charge or any part thereof remains unpaid after the due date, the amount unpaid shall be added to the tax roll of the municipality and shall be collected as taxes and remitted to the treasurer of the education development charges account established in respect of the by-law under which the education development charge is imposed. Collection

39. On or before the 25th day of the month next following the month in which an education development charge is collected under section 38, the municipality shall pay to the treasurer Transfer of money

suror of the education development charges account all money received in payment of education development charges.

Interest

40.—(1) The treasurer of the education development charges account shall pay interest out of the account to persons to whom overpayments are refunded under subsections 31 (3) and (5) and 35 (3) calculated in the manner prescribed.

Period during
which
interest is
payable

(2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid.

Regulations

41. The Lieutenant Governor in Council may make regulations that may have general or particular application in respect of a board,

- (a) respecting any matter that is referred to as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) governing the establishment and administration of the education development charges account;
- (d) providing for the application, placement in a reserve, withdrawal and use of the money deposited or accrued in an education development charges account;
- (e) requiring the approval of the Minister of Education to any factor, criterion, rate, amount, portion, estimate or project used in determining an education development charge;
- (f) prescribing the manner of calculation of education development charges to be used by boards;
- (g) providing for the sharing of proceeds where more than one board establishes a charge in respect of the same area;
- (h) prescribing an indexing formula or formulae for the purposes of subsection 29 (4);
- (i) prescribing information which boards must provide to other boards for the purposes of developing education development charges under this Part;
- (j) prescribing the manner in which interest is to be calculated for the purposes of section 40;

- (k) prescribing the manner in which notice shall be given wherever notice is required under this Part, the persons and agencies to whom notice shall be given, and the form of the notice;
- (l) prescribing the terms of agreements for credit in lieu of payment of education development charges, determining the amount of the credit and governing the allocation of the credit between or among boards.

PART IV

GENERAL

42.—(1) A by-law providing for the payment of charges related to development that is in effect on the date of the coming into force of this Act shall remain in effect until the earlier of,

Existing development charges by-laws

- (a) the repeal of the by-law;
- (b) the coming into force of a by-law under section 3;
- (c) where the maximum development charge payable under an existing by-law on a dwelling unit is more than \$3,000, one year after the date of the coming into force of this Act; or
- (d) where the maximum development charge payable under an existing by-law on a dwelling unit is \$3,000 or less, two years after the date of the coming into force of this Act.

(2) A by-law referred to in subsection (1) shall not be amended during the period it remains in effect.

No amendments permitted

43.—(1) A municipality shall not enter into an agreement under section 50 or 52 of the *Planning Act, 1983* that imposes a charge related to development after the coming into force of this Act.

Certain agreements under 1983, c. 1

(2) An agreement with respect to charges related to development made under section 50 or 52 of the *Planning Act, 1983* that is in effect on the day this Act comes into force remains in effect.

Idem

44.—(1) A request made before the coming into force of this Act for a referral under subsection 50 (17) of the *Planning Act, 1983* with respect to a condition relating to a charge

Referrals to continue

related to development shall be continued and disposed of under the *Planning Act, 1983*.

Appeals
under
1983, c. 1
continued

(2) An appeal made before the coming into force of this Act under subsection 52 (7) of the *Planning Act, 1983* with respect to a condition relating to a charge related to development shall continue and be disposed of under the *Planning Act, 1983*.

Conflicts

(3) If a decision of the Municipal Board respecting a matter mentioned under subsection (1) or (2) conflicts with a development charge by-law, the decision of the Board prevails to the extent of the conflict.

Agreements
not affected
1983, c. 1

45. Except as stated herein, this Act does not affect an agreement made under section 50 or 52 of the *Planning Act, 1983*.

No right of
petition
R.S.O. 1980,
c. 347

46. Despite section 94 of the *Ontario Municipal Board Act*, there is no right to file a petition under that section in respect of any order or decision of the Municipal Board made in respect of any matter appealed to the Board under this Act.

Conflicts

47. In the event of conflict between the provisions of this Act and any other general or special Act, the provisions of this Act prevail.

Commence-
ment

48. This Act comes into force on the day it receives Royal Assent.

Short title

49. The short title of this Act is the *Development Charges Act, 1989*.

Bill 20

An Act to provide for the Payment of Development Charges

The Hon. J. Sweeney
Minister of Municipal Affairs



1st Reading May 17th, 1989
2nd Reading June 26th, 1989
3rd Reading
Royal Assent

(Reprinted as amended by the Finance and Economic Affairs Committee)

EXPLANATORY NOTES

The *Planning Act, 1983* currently permits municipalities to impose lot levies on plans of subdivision, and on consents to sever land, to cover some of the costs to municipalities of servicing the resultant growth. The purpose of the Bill is to permit both municipalities and school boards to impose development charges on all types of development that will increase the need for municipal services or school facilities. The Bill also provides authority for agreements between owners and municipalities to allow owners under certain conditions to develop their land earlier than the servicing plans of the municipalities would otherwise permit. Municipalities would then reimburse those owners for their additional costs from development charges subsequently received from other owners of land benefiting from those services.

The principal provisions of the Bill are as follows:

PART I — Development charges

Municipalities may pass by-laws imposing development charges, on types of development specified in the by-law, for the municipal services specified. Development charges could not be imposed on expansions of existing dwelling units, or on the creation of additional units in existing residential buildings, if done in accordance with the regulations. Also, development charges could not be imposed with respect to certain local services which are normally installed by the person developing the land.

A municipality may exempt from development charges categories of dwelling units designated as affordable housing in the by-law and categories of institutions designated in the by-law.

Procedures are established for passing development charge by-laws and for appealing them to the Ontario Municipal Board. The Board could lower or repeal development charges, but not increase them. If an appeal is successful, municipalities would be required to refund the charges already paid.

Development charge by-laws would expire after five years. Municipalities could pass new by-laws before this occurred.

Owners may complain to municipal councils regarding errors in the calculation of development charges and may appeal council decisions to the Ontario Municipal Board.

A development charge must be paid before a building permit is issued, except in specified circumstances. Municipalities may agree to permit owners to provide services in lieu of paying development charges.

Development charges are generally to be collected by lower tier municipalities, although they may be collected by upper tier municipalities as well.

Unpaid development charges are to be added to municipal tax rolls and collected as taxes.

Municipalities may give owners a credit for services installed under existing *Planning Act, 1983* provisions, and under other specified legislation.

Municipalities are to place development charge funds received in separate reserve funds.

Municipalities must pay interest on refunds of development charges.

PART II — Front-end payment

Municipalities may enter into agreements with owners who wish to accelerate development of their lands, and to have those owners install services or pay municipalities for

the installation of services required to accelerate development, to collect from other owners who subsequently benefit from those services, and to reimburse the front-ending owners out of development charges subsequently paid by the other benefiting owners.

Owners are to be given notice of front-ending agreements and to be permitted to appeal them to the Ontario Municipal Board.

Agreements may be registered on land benefiting from them, and municipalities may enforce them against owners and subsequent owners.

Municipalities may enforce agreements against owners of land benefiting from services installed under the agreements.

PART III — Education development charges

School boards may establish by by-law an education development charge to finance all or part of the local share of the costs of new schools or additions to schools required because of growth. The education development charge applies to residential and non-residential development.

Notice provisions and appeal procedures are similar to those contained in Part II.

The Bill also provides for the collection of the education development charge by the municipality. An education development charges account shall be established in respect of the money collected under the charge to be used for an approved capital project.

If two or more school boards, which share an area of jurisdiction, pass a by-law to impose an education development charge upon the same area, the money collected is to be placed in a joint account to be used by the boards as directed by the Minister of Education.

Withdrawals from an education development charges account can only be made for school construction projects which have the approval of the Minister of Education and have been recognized for capital grant purposes.

PART IV — General

Existing by-laws or resolutions providing for development charges are to terminate within a maximum of two years.

No new development charges may be imposed under the *Planning Act, 1983* after a maximum of two years, but existing agreements providing for development charges are to remain in effect.

Existing referrals or appeals under the *Planning Act, 1983* regarding development charges are to be continued and disposed of under the *Planning Act, 1983*.

Agreements under the subdivision and consent provisions of the *Planning Act, 1983* are not to be affected by this Bill, except as those agreements apply to charges related to development.

Bill 20**1989**

An Act to provide for the Payment of Development Charges

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“area municipality” means,

- (a) a town, other than a separated town, township or village in a county, and
- (b) a city, town, village or township in a regional, metropolitan or district municipality;



“benefiting area” means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;

“capital cost” means costs incurred or proposed to be incurred by a municipality or a local board thereof directly or under an agreement,

- (a) to acquire land or an interest in land,
- (b) to improve land,
- (c) to acquire, construct or improve buildings and structures,
- (d) to acquire, construct or improve facilities including,
 - (i) rolling stock, furniture and equipment, and
 - (ii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act, 1984*, and
- (e) to undertake studies in connection with any of the matters in clauses (a) to (d),

1984, c. 57

required for the provision of services designated in a development charge by-law within or outside the municipality, including interest on borrowing for those expenditures under clauses (a), (b), (c) and (d) that are growth-related;

“development” includes redevelopment;



“development charge” means a charge imposed with respect to growth-related net capital costs against land under a by-law passed under section 3;

“development charge by-law” means a by-law passed under section 3;

“front-end payment” means a payment made by an owner pursuant to a front-ending agreement, which may be in addition to a development charge that the owner is required to pay under a development charge by-law, to cover the net capital costs of the services designated in the agreement that are required to enable the land to be developed;

“front-ending agreement” means an agreement made under section 21;

“growth-related net capital cost” means the portion of the net capital cost of services that is reasonably attributable to the need for such net capital cost that results or will result from development in all or a defined part of the municipality;

“local board” means a local board as defined in the *Municipal Affairs Act*, other than a board defined in subsection 29 (6);

R.S.O. 1980,
c. 307

“municipality” means a city, town, village, township, improvement district or county or a regional, metropolitan or district municipality;

“Municipal Board” means the Ontario Municipal Board;

“net capital cost” means the capital cost less capital grants, subsidies and other contributions made to a municipality or that the council of the municipality anticipates will be made, including conveyances or payments under sections 41, 50 and 52 of the *Planning Act*, 1983, in respect of the capital cost;

1983, c. 1

“owner” means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

“prescribed” means prescribed by regulations made under this Act;

“services” means services designated in a development charge by-law or in an agreement made under section 21, as applicable;

“upper tier municipality” means a county or a regional, metropolitan or district municipality.

Adminis-
tration

2. The Minister of Municipal Affairs is responsible for the administration of Parts I, II and IV and the Minister of Education is responsible for the administration of Part III.

PART I

DEVELOPMENT CHARGES



By-laws
respecting
development
charges

3.—(1) The council of a municipality may pass by-laws for the imposition of development charges against land if the development of the land would increase the need for services and the development requires,

1983, c. 1

(a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*;

(b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;

(c) A conveyance of land to which a by-law passed under subsection 49 (7) of the *Planning Act, 1983* applies;

(d) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;

(e) a consent under section 52 of the *Planning Act, 1983*;

R.S.O. 1980,
c. 84

(f) the approval of a description under section 50 of the *Condominium Act*; or

R.S.O. 1980,
c. 51

(g) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

Exceptions

(2) Subsection (1) does not apply in respect of an action mentioned in clauses (1) (a) to (g) that would have the effect only,



(a) of permitting the enlargement of an existing dwelling unit; or

(b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.

Mandatory
provisions

(3) A by-law passed under subsection (1) shall,

- (a) designate those uses of land, buildings or structures upon which a development charge shall be imposed;
- (b) designate the areas within which a development charge shall be imposed;
- (c) establish the development charge, or the schedule of development charges, to be imposed in respect of the designated uses of land, buildings or structures; and
- (d) designate services for which a development charge may be imposed.

(4) A by-law passed under subsection (1) may,

Other provisions

- (a) provide for the indexing of development charges based on one of the prescribed indices; and
- (b) provide that a development charge shall be payable in money or by the provision of services or by a combination of both as may be agreed upon under subsection 9 (9) by the municipality and the owner.



(5) Despite subsection (3), a by-law passed under subsection (1) may,

Idem

- (a) designate categories of institutions for the purposes of clause (b);
- (b) provide for a full or partial exemption of designated categories of institutions from the payment of development charges;
- (c) designate categories of dwelling units as affordable housing; and
- (d) provide for a full or partial exemption of designated categories of affordable housing from the payment of development charges.

(6) No land, except land owned by and used for the purposes of a board as defined in subsection 29 (6) or a municipality, is exempt from a development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*.

Limited exemption



R.S.O. 1980, c. 31

(7) No development charge may be imposed with respect to,

Restriction on development charges

1983, c. 1

(a) local services installed at the expense of the owner within a plan of subdivision as a condition of approval under section 50 of the *Planning Act, 1983*;

(b) local services installed at the expense of the owner as a condition of approval under section 52 of the *Planning Act, 1983*; or

R.S.O. 1980,
c. 302

(c) local connections to water mains, sanitary sewers and storm drainage facilities installed at the expense of the owner including amounts imposed under a by-law passed under section 219 of the *Municipal Act*.

Public
meeting

4.—(1) Before passing a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the council,

(a) shall hold at least one public meeting;

(b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and

(c) shall ensure that sufficient information is made available at the meeting to enable the public to understand generally the development charges proposal.

Right to be
heard

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giving of notice have been complied with and any person who attends the meeting may make representations in respect of the proposed development charges.

Notice of
by-law

(3) If the council passes a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the clerk of the municipality shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4).

Appeal

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

(5) For the purposes of subsection (4), the written notice shall be deemed to be given, Timing of notice

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by personal service, on the day that service of all required notices is completed; or
- (c) where notice is given by mail, on the day that the mailing of all required notices is completed.

(6) A clerk of a municipality who receives a notice of appeal shall compile a record which shall include, Record

- (a) a copy of the by-law certified by the clerk;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

(7) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Board may require in respect of the appeal. Notice and record to O.M.B.

(8) An affidavit or declaration of the clerk of the municipality that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein. Affidavit, declaration conclusive evidence

(9) The Municipal Board shall hold a hearing notice of which shall be given to such persons or organizations and in such manner as the Board may determine. Hearing

(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal. Early dismissal of appeal

➡
(11) The Municipal Board may,

Determination by O.M.B.

- (a) dismiss the appeal;
- (b) order the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Board's order; or
- (c) repeal the by-law in whole or in part or amend the by-law in such manner as the Board may determine.

Restrictions
on
amendments

(12) Despite subsection (11), the Municipal Board may not amend or order the amendment of a by-law so as to,

- (a) increase a development charge imposed by the by-law; or
- (b) alter the term of the by-law.

Date by-law
effective

5.—(1) A development charge by-law comes into force on the date it is passed or the date specified in the by-law, whichever is later.

Retroactive
repeal

(2) If the Municipal Board orders the council of a municipality to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law came into force.

Refund

(3) The municipality shall refund all development charges paid under the by-law or that part of the by-law that is repealed under subsection 4 (11),

- (a) if repealed by the Municipal Board, within thirty days of the date of the order of the Board; or
- (b) if repealed by the council of the municipality, within thirty days of the date of repeal.

Retroactive
amendments

(4) If the Municipal Board orders the council of a municipality to amend a by-law, the amendment shall be deemed to have come into force on the day the by-law came into force.

Refunds

(5) The municipality shall refund the difference between the development charges paid under that part of the by-law that is amended under subsection 4 (11) and the development charges required to be paid under the amendment,

- (a) if the by-law is amended by the Municipal Board, within thirty days of the date of the order of the Board; or

- (b) if the by-law is amended by the council of the municipality, within thirty days of the date of the amendment.

(6) A repeal or amendment made under subsection 4 (11) is not subject to appeal under subsection 4 (4). Restrictions on appeal

(7) A municipality shall give notice of the particulars of a development charge by-law that is in force in the manner and to the persons prescribed. Notice of by-law

6.—(1) A development charge by-law expires five years after the date it comes into force. Expiration of by-law

(2) Despite subsection (1), the council of a municipality may, Idem

- (a) provide in the by-law for a term of less than five years; or

- (b) repeal the by-law.

(3) Amendments to a by-law by council under subsection 4 (11) or 7 (1) do not affect the term of the by-law. Term of by-law

(4) Subject to subsections (5), (6) and (7), the council of a municipality in which a development charge by-law is in force may pass a new development charge by-law. New by-law

(5) Before passing a new development charge by-law, the council shall conduct a review of the development charge policies of the municipality. Review of policies

(6) In conducting a review under subsection (5), council shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the municipality. Public meeting

(7) Sections 4 and 5 apply with necessary modifications to the passing of a by-law under subsection (4). Procedures

7.—(1) The council of a municipality that has passed a development charge by-law may amend the by-law. Amendments

(2) Sections 4 and 5 apply with necessary modifications to an amendment of a development charge by-law under subsection (1). Procedures




Complaints

8.—(1) An owner may complain in writing to the council of a municipality in respect of the development charge imposed by the municipality on the owner's development that,

- (a) the amount of the development charge imposed was incorrect or was based on incorrect data;
- (b) the amount credited to the owner under section 13 is incorrect;
- (c) the amount of a previous development charge being credited under section 14 is incorrect; or
- (d) there was an error in the application of the development charge by-law.

When
complaint to
be made

(2) An owner may not submit a complaint under subsection (1) after ninety days following the latest of,

- (a) the date a building permit is issued;
- (b) the date a development charge is payable under subsection 9 (3); or
- (c) the date a development charge is payable under an agreement under subsection 9 (4) or (8). 

Idem

(3) The complaint shall state the name and address where notices can be given to the complainant and shall state the reasons for the complaint.

Hearing

(4) The council shall give the complainant the opportunity to make representations and notice of the hearing shall be mailed to the complainant by the clerk not less than fourteen days before the date the complaint is to be considered.

Determi-
nation by
council

(5) After hearing the evidence and submissions of the complainant, the council may,

- (a) confirm the development charge; or
- (b) amend the development charge to the extent that, in the opinion of the council, a review of any or all of the matters in subsection (1) justifies such an amendment.

Notice of
decision

(6) The clerk of the municipality shall, not later than fifteen days after the day a decision is made by the council, give written notice of the decision by mail to the complainant, and the

notice shall specify the last day for filing an appeal, which date shall be no earlier than twenty days after the date the letter is mailed.

(7) The complainant may appeal the decision of the council to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the reasons for the appeal. Appeal

(8) The clerk of the municipality who receives a notice of appeal under subsection (7) shall compile a record which shall include, Record

- (a) a copy of the development charge by-law certified by the clerk;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice have been complied with; and
- (c) the original or a true copy of all written submissions and material in support of the complaint.

(9) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information and material that the Board may require in respect of the appeal. Notice and record to O.M.B.

(10) The parties to the appeal are the complainant and the municipality. Parties

(11) The Municipal Board shall hold a hearing notice of which shall be given to the parties to the appeal. Notice of hearing

(12) Despite subsection (11), the Municipal Board may, where it is of the opinion that the complaint set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal. Early dismissal

(13) The Municipal Board may make any decision that could have been made by the council of the municipality. Decision by O.M.B.

(14) If the development charge is amended by the council or by the Municipal Board, the municipality shall immediately refund the difference between the development charge paid that was in dispute and the amount of the charge required by the council or the Municipal Board to be paid. Refund

When charge
is due

9.—(1) A development charge is payable on the date a building permit is issued in relation to a building or structure on land to which a development charge applies.

Effect of
non-payment

(2) Despite any other Act, a municipality is not required to issue a building permit in relation to a building or structure on land to which a development charge applies unless the development charge has been paid.

Exception

(3) Despite subsection (1), a municipality may, in a development charge by-law, provide that a development charge with respect to water supply services, sanitary sewer services, storm drainage services, transportation services and electrical power or energy services shall be payable, with respect to an approval of a plan of subdivision under section 50 of the *Planning Act, 1983*, immediately upon entering into the subdivision agreement.

1983, c. 1

Agreement
respecting
payments

(4) A municipality may enter into an agreement with an owner providing for the payment of a development charge before the date otherwise required for payment under subsection (1) or (3).

Idem

(5) Despite any provision of a development charge by-law, an owner entering into an agreement under subsection (4) is required to pay only the development charge in effect on the date it is payable under the agreement.

Payments
non-trans-
ferable

(6) The payments agreed to under subsection (4) are payable by the owner entering into the agreement and are not transferable to a subsequent owner.

Credits non-
transferable

(7) Credits given under section 13 or 14 to an owner who has entered into an agreement under subsection (4) are not transferable to a subsequent owner.

Exceptions in
agreements

(8) Despite subsections (1) and (3), a municipality may enter into an agreement with an owner providing for the payment of all or any portion of the development charge on dates later than the issuing of a building permit or the entering into of a subdivision agreement.

Services in
lieu of
payment

(9) Despite subsections (1) and (3), a municipality may by agreement permit an owner to provide services in lieu of the payment of all or any portion of a development charge.

Interest

(10) A municipality that has entered into an agreement under subsection (8) may charge interest, at a rate stipulated

in the agreement, on that part of the development charge not paid in accordance with subsection (1).

10.—(1) If a development charge is imposed by an upper tier municipality, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the charge has been imposed, the amount of the charge, the manner in which the charge is to be paid and when the charge is due. Upper tier municipalities

(2) The treasurer of the area municipality shall collect the charge imposed by the upper tier municipality when due and shall, unless an extension of time is agreed to by the upper tier municipality, remit the amount of the charge to the treasurer of the upper tier municipality on or before the 25th day of the month following the month in which the charge is received by the area municipality. Collection of development charges



(3) Despite subsection (2), a development charge imposed by an upper tier municipality under subsection 9 (3), (4) or (8) may be collected by the upper tier municipality. Idem

(4) The treasurer of an upper tier municipality that has collected a development charge under subsection (3) shall certify to the treasurer of the area municipality in which the land is located that the charge has been collected. Certification

(5) If building permits are issued by an upper tier municipality, the chief building official of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that all applicable law within the meaning of the *Building Code Act*, except the payment of development charges, has been complied with. Idem
R.S.O. 1980,
c. 51

(6) The treasurer of the area municipality shall, upon receipt of the certificate under subsection (5) and upon payment of all development charges and education development charges under Part III imposed on the development, immediately certify to the chief building official of the upper tier municipality that all development charges and education development charges have been paid. Idem

(7) If building permits are issued by an upper tier municipality, the upper tier municipality may, if agreed to by the area municipality, collect all development charges and education development charges. Delegation of collection powers

 **11.** A municipality that has passed a development charge by-law may register the by-law or a certified copy of it on the land to which it applies. Notice of by-law


Collection

12.—(1) If the development charge or any part thereof imposed by a municipality, other than an upper tier municipality, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

Idem

(2) If the development charge or any part thereof imposed by an upper tier municipality remains unpaid after the due date, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the amount is unpaid and the amount unpaid shall be added to the tax roll of the area municipality and shall be collected as taxes.

Credit for services

13.—(1) A municipality that permits the provision of services in lieu of the payment of all or any portion of a development charge shall give a credit for an amount equal to the reasonable cost to the owner of providing the services.

Idem

(2) If a municipality and owner enter an agreement that permits an owner to provide services additional to or of a greater size or capacity than is required under a development charge by-law, the municipality may agree to give a credit for an amount up to the reasonable cost to the owner of providing the services.

Idem

(3) A credit given under subsection (2) shall not be charged to a reserve fund established under section 16.

Credits

14.—(1) If an owner or a former owner has, before the coming into force of a development charge by-law, paid all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for the amount of the charge paid.

1983, c. 1

Idem

(2) If an owner or a former owner has, before the coming into force of a development charge by-law, provided services in lieu of the payment of all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for an amount equal to the reasonable cost to the owner or to the former owner of providing the services.

Idem


R.S.O. 1980,
c. 302;
1960-61,
c. 120;
1961-62,
c. 171

(3) If an owner is required to pay a charge to a municipality under a by-law passed under section 215 of the *Municipal Act*, section 4 of the *City of Ottawa Act, 1960-61* or section 1 of the *City of Toronto Act, 1961-62*, the municipality shall


reduce the development charge payable under the development charge by-law by an amount equal to the charge imposed by that by-law.

(4) If a conflict exists between the provisions of a development charge by-law and an agreement referred to in subsection (1) or (2), the provisions of the agreement prevail to the extent of the conflict. Conflicts

(5) If a conflict exists between the provisions of a development charge by-law and any other agreement between a municipality and an owner or a former owner with respect to land within the area to which the by-law applies, the provisions of the agreement prevail to the extent that there is a conflict. Idem

 **15.**—(1) A municipality shall not levy more than one development charge on land to which a development charge applies even though two or more of the actions described in clauses 3 (1) (a) to (g) are required before that land can be developed. Multiple requirements

(2) Despite subsection (1), if two or more of the actions described in clauses 3 (1) (a) to (g) occur at different times, a municipality may require the payment of an additional development charge if the subsequent action has the effect of increasing the need for services. Idem

16.—(1) Payments received by a municipality under this Part shall be maintained in a separate reserve fund or funds and shall be used only to meet growth-related net capital costs for which the development charge was imposed.  Reserve fund

(2) Subsections 165 (2) and (3) of the *Municipal Act* apply with necessary modifications to payments received by a municipality under this Part. R.S.O. 1980, c. 302, s. 165 applies

17. The treasurer of the municipality shall, in each year, on or before such date as council may direct, furnish to the council a statement in respect of each reserve fund established under section 16 containing the information prescribed. Statement of treasurer

18.—(1) A municipality shall pay interest to persons to whom overpayments are refunded under subsection 5 (3), 5 (5) or 8 (14) calculated in the manner prescribed. Interest

(2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid. Idem

(3) The refund shall include the interest owed. Idem

Regulations

19. The Lieutenant Governor in Council may make regulations,

- (a) prescribing, for the purposes of section 3, the manner in which development charges shall be calculated;
- (b) prescribing the number of additional dwelling units and the categories of existing residential buildings for the purposes of clause 3 (2) (b);
- (c) prescribing, for the purposes of section 3, those services for which development charges shall not be imposed;
- (d) prescribing, for the purposes of clause 3 (4) (a), an index or indices that may be used;
- (e) prescribing, for the purposes of subsection 4 (1), the persons that are to be given notice and the manner in which notice is to be given;
- (f) prescribing, for the purposes of subsection 4 (3), the persons and agencies that are to be given notice and the manner and form in which notice is to be given;
- (g) prescribing, for the purposes of subsection 5 (7), the information to be provided in the notice and the persons to whom notice is to be given;
- (h) prescribing, for the purposes of section 13, the manner in which credits shall be calculated;
- (i) prescribing the information to be provided in a statement of the treasurer under section 17;
- (j) prescribing methods of calculating and establishing interest rates under section 18;
- (k) prescribing anything that in Parts I, II and IV of this Act may be prescribed by regulation.

PART II

FRONT-END PAYMENTS



Definition

20. In this Part, “benefiting owner” means an owner of land within a benefiting area other than an owner who is party to a front-ending agreement.

21.—(1) A municipality that has passed a development charge by-law may enter into a front-ending agreement or agreements with any or all owners within a benefiting area providing for the payment by those owners of a front-end payment or for the installation of services by the owners, or any combination thereof.

Front-ending
agreement

(2) A front-ending agreement shall contain,

Contents of
agreement

- (a) a list of the services for which front-end payments shall be made or services installed by the owner;
- (b) the estimated cost of installing the services;
- (c) the proportion of the front-end payment or the cost of the installation of services to be paid by each owner who is a party to the agreement;
- (d) the agreement of the owners to immediately pay to the municipality the actual costs incurred by the municipality in the installation of the services in accordance with the proportions determined under clause (c);
- (e) the agreement of the municipality to immediately reimburse the owners if the actual cost incurred by the municipality in the installation of the services is lower than the estimated cost in accordance with the proportions determined under clause (c);
- (f) a description of the benefiting area for each of the services;
- (g) a list of the services in the agreement for which a development charge is payable;
- (h) a list of the services in the agreement which are services described in subsection 3 (7);
- (i) a description of the manner in which the portion of the payment to be made by each benefiting owner with respect to the services listed in clause (g) is to be calculated;
- (j) if the agreement provides for the installation of services by the owners who are parties to the agreement, the agreement of the municipality to use the reasonable cost to the owners of installing the services in making the calculations under clause (i);

(k) the agreement of the municipality to require each benefiting owner to pay, with respect to the services listed in clause (g), that benefiting owner's portion of the front-end payment; and

(l) the period of time during which the agreement is in force.

Idem

(3) A front-ending agreement may provide that the reasonable costs to the municipality of administering the agreement, including the cost of consultants and studies required in preparation of the agreement, are to be included in calculating the front-end payment.

Idem

(4) A front-ending agreement may provide for the indexing of the payments required to be made by the benefiting owner under clause (2) (k).

Front-ending
agreement

22.—(1) The municipality shall give notice of the front-ending agreement,

(a) by mailing it to all owners within the benefiting area; or

(b) by publishing it in a newspaper having general circulation in the municipality. 

Contents of
notice

(2) The notice referred to in subsection (1) shall explain the nature and purpose of the agreement and shall indicate that the agreement can be viewed in the office of the clerk during normal office hours.

Objections

(3) Any owner to whom notice of the agreement is given, except a party to the agreement, may object to the agreement by filing a written objection with the clerk of the municipality within twenty-one days of the date of the giving of the notice of the agreement.



Notice

(4) For the purposes of subsection (3), notice shall be deemed to be given,

(a) where notice is given by mail, on the day the mailing of all required notices is completed; or

(b) where notice is given by publication in a newspaper, on the day that the publication occurs. 

Effective
date of
agreement

(5) If no objection is filed within twenty-one days, the agreement shall be deemed to have come into effect on the date it was fully executed.

(6) If an objection is filed, the clerk shall immediately forward it to the Municipal Board. Objections to O.M.B.

(7) The Municipal Board shall hold a hearing and shall confirm the agreement, refuse to confirm the agreement or direct a municipality to make changes to the agreement. Hearing to O.M.B.

(8) If an objection is filed under subsection (3), the agreement comes into effect when approved by the Municipal Board or, if changes are directed by the Board, when the municipality and the other parties to the agreement have executed the agreement as directed to be changed by the Board. Effective date where objection

(9) The parties to the Municipal Board hearing are the municipality, the other parties to the agreement and the owners who filed written objections within the period referred to in subsection (3). Parties

(10) The Municipal Board may, where it is of the opinion that the objection to the agreement is insufficient, dismiss the objection without holding a full hearing, but before dismissing the objection it shall notify the objector and give the objector an opportunity to make representations as to the merits of the objection. Early dismissal of objection

23. Section 64 of the *Ontario Municipal Board Act* does not apply to a front-ending agreement or to special accounts established under sections 27 and 28. O.M.B. approval not required
R.S.O. 1980, c. 347


24. An agreement entered into under section 21 may be registered against the land in the benefiting area, and subject to the *Registry Act* and the *Land Titles Act*, the municipality, Registration
R.S.O. 1980, cc. 445, 230

(a) may enforce the provisions of the agreement against any and all subsequent owners of the lands owned by the parties thereto; and

(b) may enforce the provisions of the agreement made under clauses 21 (2) (d) and (k), subsection 21 (4) and section 26 against any and all owners and subsequent owners of lands in the benefiting area.

25. If a front-ending agreement is in effect, no person shall undertake any development that requires an approval mentioned in subsection 3 (1) within a benefiting area until section 26 has been complied with. Compliance necessary

26. A municipality that has entered into a front-ending agreement shall require a benefiting owner to pay the benefiting owner's portion of the front-end payment as a condition of Payments to parties to agreement

an approval granted during the term of the agreement of any development on that portion of the benefiting owner's land located within the benefiting area. 


Special
accounts

27.—(1) The municipality shall place all money received from the parties to the front-ending agreement in a special account and shall use the funds in such account only for,

- (a) paying the actual net cost of the installation of the services specified in the agreement; and
- (b) reimbursing to the parties to the agreement any funds remaining in the account after the installation of the services referred to in clause (a).

Idem

(2) During the term of the agreement the municipality shall provide annually to the parties to the front-ending agreement a statement setting out the particulars of payments made out of the account, the balance remaining in the account and additional payments, if any, that are or will be required from the parties pursuant to the agreement.

 Distribution
of section 26
funds

28.—(1) The municipality shall place money received under section 26 in a special account and shall, immediately upon receipt of the money, by registered mail,

- (a) notify the parties to the front-ending agreement that the money is available to be paid out; and
- (b) request the parties to give directions to the municipality as to whom the money is to be paid.

Payment to
party

(2) Upon receipt of a direction from a party to a front-ending agreement, the municipality shall pay to the party named in the direction the proportion of the money received by the municipality to which the party is entitled.

Payment into
court

(3) If within ninety days of mailing the notice under subsection (1) the municipality has not received a direction from a party, the municipality may pay the money owing to that party into the Supreme Court.

Notification
of payment

(4) A municipality that has paid money into court under subsection (3) shall immediately notify the party to whom the money is owing, by registered mail sent to the party's last known address, that,

- (a) the money has been paid into court; and

(b) the party must apply to the court for the release of the money.

(5) If the party to whom notice was sent, or an heir, successor or assign thereof, has not applied to the court under clause (4) (b) within twelve months of the mailing of the notice, the municipality may apply to the court for the release of the money to the municipality.

Application
for release of
funds

(6) If the court has not received a request for the release of the money before the application of the municipality is received, it shall release the money to the municipality.

Release of
funds

(7) The municipality may place money released by the court in its general account.

Funds to
general
account

(8) The municipality is required to reimburse the parties to the agreement only when the money referred to in subsection (1) is paid and only in accordance with subsections (1) to (4).

Limited
responsibility

(9) Payments made under subsection (1) with respect to services referred to in clause 21 (2) (g) shall be deducted from the amount otherwise payable by an owner pursuant to a development charge by-law.

Deductions

PART III

EDUCATION DEVELOPMENT CHARGES

29.—(1) In this Part,

Definitions

“board” means a board described in paragraph 3 of subsection 1 (1) of the *Education Act*, other than,

R.S.O. 1980,
c. 129

- (a) a board established under section 70 of the *Education Act*,
- (b) a board of education for an area municipality in The Municipality of Metropolitan Toronto,
- (c) The Metropolitan Toronto French-Language School Council, and
- (d) The Ottawa-Carleton French-language School Board,

but includes the public sector and the Roman Catholic sector of The Ottawa-Carleton French-language School Board and The Metropolitan Toronto School Board;

“commercial development” means a development other than a residential development;

“education capital cost” means costs incurred or proposed to be incurred by a board,

- (a) to acquire school facilities to provide pupil accommodation,
- (b) to construct, expand, alter or improve school facilities to provide pupil accommodation,
- (c) to furnish or equip the school facilities described in clauses (a) and (b), and
- (d) to undertake studies in connection with any of the matters in clauses (a), (b) and (c);

“education development charge” means a development charge imposed under a by-law passed under section 30 respecting growth-related net education capital costs incurred or proposed to be incurred by a board;

“education development charge by-law” means a by-law passed under subsection 30 (1);

“education development charges account” means an account established in accordance with the regulations for money collected under an education development charge by-law;

“growth-related net education capital cost” means the prescribed portion of the net education capital cost reasonably attributable to the need for such net education capital cost that is attributed to or will result from development in all or part of the area of jurisdiction of a board;

“net education capital cost” means the education capital cost reduced by any capital grants and subsidies paid or that may be paid to the board in respect of such education capital cost;

“owner” means the owner of the land or a person who has made application for an approval for the development of the land upon which an education development charge is imposed;

“pupil accommodation” means a building to accommodate pupils or an addition or alteration to a building that enables the building to accommodate an increased number of pupils;

“school facilities” means a school site described in paragraph 53 of subsection 1 (1) of the *Education Act*.

R.S.O. 1980,
c. 129

(2) In this Part, reference to the area of jurisdiction of a board, in the case of a county combined separate school board or a district combined separate school board, is the area designated by the regulations made under the *Education Act*.

Interpretation

30.—(1) If there is residential development in the area of jurisdiction of a board that would increase education capital costs, the board may pass by-laws for the imposition of education development charges against land undergoing residential and commercial development in that area if the residential and commercial development require,

Education
development
charge by-law

- (a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*;
- (b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;
- (c) a conveyance of land to which a by-law passed under subsection 49 (7) of the *Planning Act, 1983* applies;
- (d) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;
- (e) a consent under section 52 of the *Planning Act, 1983*;
- (f) the approval of a description under section 50 of the *Condominium Act*; or
- (g) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

1983, c. 1

R.S.O. 1980,
c. 84

R.S.O. 1980,
c. 51

(2) Subsection (1) does not apply in respect of an action mentioned in clauses (1) (a) to (g) that would have the effect only,

Exceptions

- (a) of permitting the enlargement of an existing dwelling unit; or
- (b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.

(3) A by-law passed under subsection (1) shall,

Contents of
by-law

- (a) designate the categories of residential development and commercial development upon which an education development charge shall be imposed;
- (b) designate those uses of land, buildings or structures upon which an education development charge shall be imposed;
- (c) designate the areas in which an education development charge shall be imposed; and
- (d) subject to the regulations, establish the education development charges to be imposed in respect of the designated categories of development and the designated uses of land, buildings or structures.

Indexing

(4) A by-law passed under subsection (1) may provide for the indexing of education development charges based on one of the prescribed indices.

Limited exemption

(5) No land, except land owned by and used for the purposes of a board or a municipality, is exempt from an education development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*.

R.S.O. 1980, c. 31

Interpretation

(6) In subsection (5), "board" has the same meaning as in section 29 except that it includes the boards described in clauses (a) to (d) of that definition.

Conditions

(7) The imposition of an education development charge by a board is subject to the prescribed conditions.

Public meeting

31.—(1) Before passing an education development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the board,

- (a) shall hold at least one public meeting;
- (b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and
- (c) shall ensure that sufficient information is made available to enable the public to understand generally the education development charge proposal.

Right to be heard

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giving of notice have been complied with and any person who

attends the meeting may make representations in respect of the proposed education development charges.

(3) If the board passes an education development charge by-law, other than a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the secretary of the board shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the manner and in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4). Notice of
by-law

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the secretary of the board a notice of appeal setting out the objection to the by-law and the reasons in support of the objection. Appeal

(5) For the purposes of subsection (4), written notice shall be deemed to be given, Timing of
notice

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by mail, on the day that the mailing of all required notices is completed; or
- (c) where notice is given by publication and by mail, on the later of the days that publication occurs or mailing is completed.

(6) The secretary of the board who receives a notice of appeal shall compile a record which shall include, Record

- (a) a copy of the by-law certified by the secretary;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

(7) The secretary of the board shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Municipal Board may require in respect of the appeal. Notice and
record to
O.M.B.

Affidavit,
declaration
conclusive
evidence

(8) An affidavit or declaration of the secretary of the board that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein.

Hearing

(9) The Municipal Board shall hold a hearing notice of which shall be given to such persons or organizations and in such manner as the Municipal Board may determine.

Early
dismissal of
appeal

(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant the opportunity to make representations as to the merits of the appeal.

Determi-
nation by
O.M.B.

➡
(11) The Municipal Board may,

- (a) dismiss the appeal;
- (b) order the board to repeal the by-law in whole or in part or to amend the by-law in accordance with the Municipal Board's order; or
- (c) repeal the by-law in whole or in part or amend the by-law in such manner as the Municipal Board may determine. ⬆

Restriction
on
amendments

(12) Despite subsection (11), the Municipal Board may not amend or order the amendment of a by-law so as to,

- (a) increase an education development charge imposed by the by-law; or
- (b) alter the term of the by-law.

When by-law
effective

32.—(1) An education development charge by-law comes into force on the fifth day following the day it is passed or the day specified in the by-law, whichever is later.

Retroactive
repeal


(2) If the Municipal Board orders a board to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law came into force.

Refund

➡
(3) The treasurer of the education development charges account shall refund all education development charges paid under the by-law or that part of the by-law that is repealed under subsection 31 (11),

(a) if repealed by the Municipal Board, within thirty days of the date of the order of the Municipal Board; or

(b) if repealed by the board, within thirty days of the date of repeal. 


(4) If the Municipal Board orders a board to amend a by-law in whole or in part, that part of the by-law that is amended ceases to be in force and the amendment shall be deemed to have come into force on the date the by-law came into force. 

Retroactive amendments

(5) The treasurer of the education development charges account shall refund the difference between the education development charges paid under that part of the by-law that is amended under subsection 31 (11) and the education development charges required to be paid under the amendment,

Refunds

(a) if the by-law is amended by the Municipal Board, within thirty days of the date of the order of the Municipal Board; or

(b) if the by-law is amended by the board, within thirty days of the date of the amendment. 

(6) A repeal or amendment made under subsection 31 (11) is not subject to appeal under subsection 31 (4).

Restrictions on appeal

(7) A refund under this section shall be paid to the owner and the treasurer of the education development charges account shall inform the municipal treasurer of the amount of the refund.

Direct refund

33.—(1) An education development charge by-law expires five years after the date it comes into force.

Expiration of by-law

(2) Despite subsection (1), a board may,

Idem

(a) provide in the by-law for a term of less than five years; or

(b) repeal the by-law.

(3) Despite subsection (1), if an education development charge by-law is in force in respect of an area, the term of an education development charge by-law passed by another board with respect to the same area shall expire on the date of expiration of the first-mentioned by-law.

Concurrent terms

Change of
term

(4) Where a board repeals its education development charge by-law and another board that has jurisdiction in all or part of the same area has passed a by-law that under subsection (3) would expire on the date of expiration of the first-mentioned by-law, that other board may determine that the by-law shall be in effect for up to five years after the date it comes into force and, where it does so, the board shall give notice of its determination to the same persons and in the same manner as provided under subsection 37 (1).

New
education
development
charge by-law

(5) Subject to subsections (6), (7) and (8), a board that has passed an education development charge by-law that is in force may pass a new education development charge by-law.

Review of
policies

(6) Before passing a new education development charge by-law, the board shall conduct a review of the education development charge policies of the board.

Public
meeting

(7) In conducting a review under subsection (6), the board shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the area of jurisdiction of the board.

Idem

(8) Sections 31 and 37 apply with necessary modifications to a by-law under subsection (5).

Amendment

34.—(1) A school board may amend an education development charge by-law and the amendment shall come into force on the fifth day following the date the amendment is passed and the part of the by-law that is amended ceases to be in force on that day.

Idem

(2) Sections 31 and 37 apply with necessary modifications to an amendment made under this section.

Payment of
charge

35.—(1) An education development charge is payable,

- (a) to the municipality in which the development takes place on the date a building permit is issued in relation to a building or structure on land to which an education development charge applies; or
- (b) if the development takes place in territory without municipal organization, to the board that imposed the education development charge thirty days after the board mails a notice to the owner setting out the amount of the charge.

(2) An education development charge imposed by a board in respect of commercial development is the amount determined in the manner prescribed or calculated using the formula prescribed.

Commercial
development

(3) Despite any other Act, a municipality is not required to issue a building permit in relation to a building or structure on land to which an education development charge by-law applies unless the education development charge has been paid.

Charge to be
paid before
building
permit issued

(4) Despite subsection (1), and subject to subsection (5) and the consent of the Minister of Education, a board may by agreement permit an owner to provide school facilities in lieu of the payment of all or any portion of an education development charge and the board,

Facilities in
lieu of
payment

(a) shall advise the treasurer of the municipality in which the land is situate of the amount of the credit that shall be applied against the education development charge; or

(b) if the land is located in territory without municipal organization, shall provide a credit to the owner against the educational development charge.

(5) If more than one board has jurisdiction in an area and one or more boards are to receive school facilities under subsection (4), all of the boards that have imposed an education development charge in that area are required to be parties to the agreement.

Necessary
parties

36.—(1) An owner or board may complain in writing to the council of the municipality in which the land is situate or, where the land is situate in territory without municipal organization, an owner may complain to the board that, in respect of the education development charge of that owner,

Complaints

(a) the amount of the education development charge imposed was incorrect or based on incorrect data;



(b) there was an error in the application of the education development charge by-law; or


(c) the amount credited to an owner under subsection 35 (4) is incorrect.



(2) An owner or board may not submit a complaint under subsection (1) after ninety days following the later of,

When
complaint to
be made

(a) the date a building permit is issued, or if development takes place in territory without municipal organization, the date that the education development charge is payable under clause 35 (1) (b); or

(b) the date an agreement is entered into under subsection 35 (4). 

Procedures
adopted

(3) Subsections 8 (3) to (14) apply with necessary modifications to a complaint under subsection (1).


Refunds

(4) If a final determination of a complaint has been made and a refund is due to the owner, the treasurer of the education development charges account shall pay the amount of the refund to the treasurer of the municipality who shall reimburse the owner.

Idem

(5) If a final determination of a complaint has been made and a refund is due to the school board, the treasurer of the municipality shall pay the amount of the refund to the treasurer of the education development charges account.

Underpayments


(6) If a final determination of a complaint has been made and the owner is required to pay an additional amount, the treasurer of the municipality or, in respect of territory without municipal organization, the treasurer of the board, shall collect the additional amount due from the owner and shall remit the amount to the treasurer of the education development charges account. 

Distribution
of by-law

37.—(1) A board that passes a by-law under subsection 30 (1) shall submit to the treasurer of each municipality all or part of which is made subject to an education development charge a copy of the by-law and provide a copy to the secretary of any other board that has jurisdiction in the same or part of the same area of the board that passed the by-law and forward a copy to the Minister of Education.

Special
accounts

R.S.C. 1985,
c. B-1
1987, c. 33

(2) Educational development charges accounts shall be established in accordance with the regulations and deposited with a chartered bank listed in Schedule A to the *Bank Act* (Canada) or a trust corporation registered under the *Loan and Trust Corporations Act*, 1987. 

Territory
without
municipal
organization

(3) Where the area of jurisdiction of a board includes territory without municipal organization, all or part of which is made subject to an education development charge, the board shall exercise the powers and duties of a municipal council for such territory in respect of collecting the charge and the offic-

ers of the board have the same powers and duties as similar officers in a municipality.

(4) Where an education development charge is imposed by a board, the treasurer of the municipality or board, as the case requires, shall collect the charge imposed when due and, on or before the 25th day of the month next following the month in which the charge is collected, shall deposit the amount of the charge in the education development charges account established in respect of the by-law under which the charge is imposed.

Collection of charge

(5) On or before the fifth day of the month following a month in which a deposit is made under subsection (4), the treasurer of the municipality shall forward to the treasurer of the board or the treasurer of the board shall prepare a statement setting out the prescribed information in respect of the period that began on the 26th day of the month before the preceding month and that ended on the 25th day of the preceding month.

Statement

(6) If two or more boards have imposed an education development charge by-law upon an area, the statement mentioned in subsection (5) shall be prepared in respect of the money collected and forwarded to the treasurer of each board that passed a by-law under which the money was collected.

Idem

38. A board that has passed an education development charge by-law may register the by-law or a certified copy of it on the land to which it applies.

Registration of notice

39. If an education development charge or any part thereof remains unpaid after the due date, the amount unpaid shall be added to the tax roll of the municipality or board, as the case requires and shall be collected as taxes and remitted to the treasurer of the education development charges account established in respect of the by-law under which the education development charge is imposed.

Collection

40. On or before the 25th day of the month next following the month in which an education development charge is collected under section 39, the municipality shall pay to the treasurer of the education development charges account all money received in payment of education development charges.

Transfer of money

41. If an upper tier municipality issues building permits, subsections 32 (7), 35 (1) and (4) and sections 36, 37 and 40 apply to the upper tier municipality and not to the area municipality.

Upper tier municipalities

Interest

42.—(1) The treasurer of the education development charges account shall pay interest out of the account to persons to whom overpayments are refunded under subsections 32 (3) and (5) and 36 (4) calculated in the manner prescribed.

Period during
which
interest is
payable

(2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid.

Payment of
interest

(3) The refund shall include the interest owed.

Regulations

43. The Lieutenant Governor in Council may make regulations that may have general or particular application in respect of a board,

(a) respecting any matter that is referred to as prescribed by the regulations;

(b) prescribing forms and providing for their use;

(c) governing the establishment and administration of the education development charges account;

(d) providing for the application, placement in a reserve, withdrawal and use of the money deposited in or accredited to an education development charges account and requiring the approval of the Minister in respect of the manner in which or the rate at which the money is withdrawn;




(e) prescribing the powers of the treasurer of the education development charges account in relation to the withdrawal of funds;

(f) requiring the approval of the Minister of Education to any factor, criterion, rate, amount, portion, estimate or project used in determining an education development charge;

(g) prescribing the manner of calculating or determining education development charges and prescribing classes of persons that may make determinations necessary for the calculation of education development charges;


(h) providing for the sharing of proceeds where more than one board establishes a charge in respect of the same area;

(i) prescribing, for the purposes of subsection 30 (4), an index or indices that may be used;


- (j) prescribing information which boards must provide to other boards and to the Minister for the purposes of developing education development charges under this Part;
 - (k) prescribing methods of calculating and establishing interest rates under section 42; 
 - (l) prescribing the manner in which notice shall be given wherever notice is required under this Part, the persons and agencies to whom notice shall be given, and the form of the notice;
 - (m) prescribing the terms of agreements for credit in lieu of payment of education development charges, determining the amount of the credit and governing the allocation of the credit between or among boards;
-  (n) requiring a board to exempt an owner from an educational development charge if the owner meets the prescribed conditions. 

PART IV

GENERAL


 **44.**—(1) A by-law or resolution providing for the payment of charges related to development that is in effect on the date of the coming into force of this Act shall remain in effect until the earliest of,

Existing
development
charges
by-law

- (a) the repeal of the by-law or resolution;
- (b) the coming into force of a by-law under section 3;
or
- (c) two years after the date of the coming into force of this Act. 

(2) A by-law or resolution referred to in subsection (1) shall not be amended during the period it remains in effect.

No
amendments
permitted

 (3) Subsection (1) does not apply with respect to a by-law referred to in subsection 14 (3) or to a by-law passed under section 41 of the *Planning Act, 1983*.

Exceptions


45.—(1) A municipality shall not enter into an agreement under section 50 or 52 of the *Planning Act, 1983* that imposes

Certain
agreements
under
1983, c. 1

a charge related to a development, except a charge referred to in subsection 3 (7), after the earlier of,

- (a) the coming into force of a by-law under section 3; or
- (b) two years after the date of the coming into force of this Act.

Idem

(2) An agreement with respect to charges related to development made under section 50 or 52 of the *Planning Act, 1983* that is in effect on the earlier of the dates referred to in clauses (1) (a) and (b) remains in effect. 

Referrals to continue

46.—(1) A request made before the coming into force of this Act for a referral under subsection 50 (17) of the *Planning Act, 1983* with respect to a condition relating to a charge related to development shall be continued and disposed of under the *Planning Act, 1983*.

Appeals under 1983, c. 1 continued

(2) An appeal made before the coming into force of this Act under subsection 52 (7) of the *Planning Act, 1983* with respect to a condition relating to a charge related to development shall continue and be disposed of under the *Planning Act, 1983*.

Conflicts

(3) If a decision of the Municipal Board respecting a matter mentioned under subsection (1) or (2) conflicts with a development charge by-law, the decision of the Board prevails to the extent of the conflict.

Agreements not affected 1983, c. 1

47. Except as stated herein, this Act does not affect an agreement made under section 50 or 52 of the *Planning Act, 1983*.

No right of petition R.S.O. 1980, c. 347

48. Despite section 94 of the *Ontario Municipal Board Act*, there is no right to file a petition under that section in respect of any order or decision of the Municipal Board made in respect of any matter appealed to the Board under this Act.

Conflicts

49. In the event of conflict between the provisions of this Act and any other general or special Act, the provisions of this Act prevail.

Commencement

50. This Act comes into force on the day it receives Royal Assent.

Short title

51. The short title of this Act is the *Development Charges Act, 1989*.

Bill 20

(Chapter 58
Statutes of Ontario, 1989)

An Act to provide for the Payment of Development Charges

The Hon. J. Sweeney
Minister of Municipal Affairs



<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	November 22nd, 1989
<i>Royal Assent</i>	November 23rd, 1989

Bill 20

1989

An Act to provide for the Payment of Development Charges

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“area municipality” means,

- (a) a town, other than a separated town, township or village in a county, and
- (b) a city, town, village or township in a regional, metropolitan or district municipality;

“benefiting area” means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;

“capital cost” means costs incurred or proposed to be incurred by a municipality or a local board thereof directly or under an agreement,

- (a) to acquire land or an interest in land,
- (b) to improve land,
- (c) to acquire, construct or improve buildings and structures,
- (d) to acquire, construct or improve facilities including,
 - (i) rolling stock, furniture and equipment, and
 - (ii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act, 1984*, and
- (e) to undertake studies in connection with any of the matters in clauses (a) to (d),

1984, c. 57

required for the provision of services designated in a development charge by-law within or outside the municipality, including interest on borrowing for those expenditures under clauses (a), (b), (c) and (d) that are growth-related;

“development” includes redevelopment;

“development charge” means a charge imposed with respect to growth-related net capital costs against land under a by-law passed under section 3;

“development charge by-law” means a by-law passed under section 3;

“front-end payment” means a payment made by an owner pursuant to a front-ending agreement, which may be in addition to a development charge that the owner is required to pay under a development charge by-law, to cover the net capital costs of the services designated in the agreement that are required to enable the land to be developed;

“front-ending agreement” means an agreement made under section 21;

“growth-related net capital cost” means the portion of the net capital cost of services that is reasonably attributable to the need for such net capital cost that results or will result from development in all or a defined part of the municipality;

“local board” means a local board as defined in the *Municipal Affairs Act*, other than a board defined in subsection 29 (6); R.S.O. 1980, c. 307

“municipality” means a city, town, village, township, improvement district or county or a regional, metropolitan or district municipality;

“Municipal Board” means the Ontario Municipal Board;

“net capital cost” means the capital cost less capital grants, subsidies and other contributions made to a municipality or that the council of the municipality anticipates will be made, including conveyances or payments under sections 41, 50 and 52 of the *Planning Act, 1983*, in respect of the capital cost; 1983, c. 1

“owner” means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

“prescribed” means prescribed by regulations made under this Act;

“services” means services designated in a development charge by-law or in an agreement made under section 21, as applicable;

“upper tier municipality” means a county or a regional, metropolitan or district municipality.

Adminis-
tration

2. The Minister of Municipal Affairs is responsible for the administration of Parts I, II and IV and the Minister of Education is responsible for the administration of Part III.

PART I

DEVELOPMENT CHARGES

By-laws
respecting
development
charges

3.—(1) The council of a municipality may pass by-laws for the imposition of development charges against land if the development of the land would increase the need for services and the development requires,

1983, c. 1

- (a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*;
- (b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;
- (c) A conveyance of land to which a by-law passed under subsection 49 (7) of the *Planning Act, 1983* applies;
- (d) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;
- (e) a consent under section 52 of the *Planning Act, 1983*;

R.S.O. 1980,
c. 84

- (f) the approval of a description under section 50 of the *Condominium Act*; or

R.S.O. 1980,
c. 51

- (g) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

Exceptions

(2) Subsection (1) does not apply in respect of an action mentioned in clauses (1) (a) to (g) that would have the effect only,

- (a) of permitting the enlargement of an existing dwelling unit; or
- (b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.

Mandatory
provisions

- (3) A by-law passed under subsection (1) shall,

- (a) designate those uses of land, buildings or structures upon which a development charge shall be imposed;
- (b) designate the areas within which a development charge shall be imposed;
- (c) establish the development charge, or the schedule of development charges, to be imposed in respect of the designated uses of land, buildings or structures; and
- (d) designate services for which a development charge may be imposed.

(4) A by-law passed under subsection (1) may,

Other provisions

- (a) provide for the indexing of development charges based on one of the prescribed indices; and
- (b) provide that a development charge shall be payable in money or by the provision of services or by a combination of both as may be agreed upon under subsection 9 (9) by the municipality and the owner.

(5) Despite subsection (3), a by-law passed under subsection (1) may,

Idem

- (a) designate categories of institutions for the purposes of clause (b);
- (b) provide for a full or partial exemption of designated categories of institutions from the payment of development charges;
- (c) designate categories of dwelling units as affordable housing; and
- (d) provide for a full or partial exemption of designated categories of affordable housing from the payment of development charges.

(6) No land, except land owned by and used for the purposes of a board as defined in subsection 29 (6) or a municipality, is exempt from a development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*.

Limited exemption

R.S.O. 1980, c. 31

(7) No development charge may be imposed with respect to,

Restriction on development charges

1983, c. 1

(a) local services installed at the expense of the owner within a plan of subdivision as a condition of approval under section 50 of the *Planning Act, 1983*;

(b) local services installed at the expense of the owner as a condition of approval under section 52 of the *Planning Act, 1983*; or

R.S.O. 1980,
c. 302

(c) local connections to water mains, sanitary sewers and storm drainage facilities installed at the expense of the owner including amounts imposed under a by-law passed under section 219 of the *Municipal Act*.

Public
meeting

4.—(1) Before passing a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the council,

(a) shall hold at least one public meeting;

(b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and

(c) shall ensure that sufficient information is made available at the meeting to enable the public to understand generally the development charges proposal.

Right to be
heard

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giving of notice have been complied with and any person who attends the meeting may make representations in respect of the proposed development charges.

Notice of
by-law

(3) If the council passes a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the clerk of the municipality shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4).

Appeal

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

(5) For the purposes of subsection (4), the written notice shall be deemed to be given, Timing of notice

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by personal service, on the day that service of all required notices is completed; or
- (c) where notice is given by mail, on the day that the mailing of all required notices is completed.

(6) A clerk of a municipality who receives a notice of appeal shall compile a record which shall include, Record

- (a) a copy of the by-law certified by the clerk;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

(7) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Board may require in respect of the appeal. Notice and record to O.M.B.

(8) An affidavit or declaration of the clerk of the municipality that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein. Affidavit, declaration conclusive evidence

(9) The Municipal Board shall hold a hearing notice of which shall be given to such persons or organizations and in such manner as the Board may determine. Hearing

(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal. Early dismissal of appeal

(11) The Municipal Board may, Determination by O.M.B.

- (a) dismiss the appeal;
- (b) order the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Board's order; or
- (c) repeal the by-law in whole or in part or amend the by-law in such manner as the Board may determine.

Restrictions
on
amendments

(12) Despite subsection (11), the Municipal Board may not amend or order the amendment of a by-law so as to,

- (a) increase a development charge imposed by the by-law; or
- (b) alter the term of the by-law.

Date by-law
effective

5.—(1) A development charge by-law comes into force on the date it is passed or the date specified in the by-law, whichever is later.

Retroactive
repeal

(2) If the Municipal Board orders the council of a municipality to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law came into force.

Refund

(3) The municipality shall refund all development charges paid under the by-law or that part of the by-law that is repealed under subsection 4 (11),

- (a) if repealed by the Municipal Board, within thirty days of the date of the order of the Board; or
- (b) if repealed by the council of the municipality, within thirty days of the date of repeal.

Retroactive
amendments

(4) If the Municipal Board orders the council of a municipality to amend a by-law, the amendment shall be deemed to have come into force on the day the by-law came into force.

Refunds

(5) The municipality shall refund the difference between the development charges paid under that part of the by-law that is amended under subsection 4 (11) and the development charges required to be paid under the amendment,

- (a) if the by-law is amended by the Municipal Board, within thirty days of the date of the order of the Board; or

- (b) if the by-law is amended by the council of the municipality, within thirty days of the date of the amendment.

(6) A repeal or amendment made under subsection 4 (11) is not subject to appeal under subsection 4 (4). Restrictions on appeal

(7) A municipality shall give notice of the particulars of a development charge by-law that is in force in the manner and to the persons prescribed. Notice of by-law

6.—(1) A development charge by-law expires five years after the date it comes into force. Expiration of by-law

(2) Despite subsection (1), the council of a municipality may, Idem

- (a) provide in the by-law for a term of less than five years; or

- (b) repeal the by-law.

(3) Amendments to a by-law by council under subsection 4 (11) or 7 (1) do not affect the term of the by-law. Term of by-law

(4) Subject to subsections (5), (6) and (7), the council of a municipality in which a development charge by-law is in force may pass a new development charge by-law. New by-law

(5) Before passing a new development charge by-law, the council shall conduct a review of the development charge policies of the municipality. Review of policies

(6) In conducting a review under subsection (5), council shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the municipality. Public meeting

(7) Sections 4 and 5 apply with necessary modifications to the passing of a by-law under subsection (4). Procedures

7.—(1) The council of a municipality that has passed a development charge by-law may amend the by-law. Amendments

(2) Sections 4 and 5 apply with necessary modifications to an amendment of a development charge by-law under subsection (1). Procedures

Complaints

8.—(1) An owner may complain in writing to the council of a municipality in respect of the development charge imposed by the municipality on the owner's development that,

- (a) the amount of the development charge imposed was incorrect or was based on incorrect data;
- (b) the amount credited to the owner under section 13 is incorrect;
- (c) the amount of a previous development charge being credited under section 14 is incorrect; or
- (d) there was an error in the application of the development charge by-law.

When
complaint to
be made

(2) An owner may not submit a complaint under subsection (1) after ninety days following the latest of,

- (a) the date a building permit is issued;
- (b) the date a development charge is payable under subsection 9 (3); or
- (c) the date a development charge is payable under an agreement under subsection 9 (4) or (8).

Idem

(3) The complaint shall state the name and address where notices can be given to the complainant and shall state the reasons for the complaint.

Hearing

(4) The council shall give the complainant the opportunity to make representations and notice of the hearing shall be mailed to the complainant by the clerk not less than fourteen days before the date the complaint is to be considered.

Determi-
nation by
council

(5) After hearing the evidence and submissions of the complainant, the council may,

- (a) confirm the development charge; or
- (b) amend the development charge to the extent that, in the opinion of the council, a review of any or all of the matters in subsection (1) justifies such an amendment.

Notice of
decision

(6) The clerk of the municipality shall, not later than fifteen days after the day a decision is made by the council, give written notice of the decision by mail to the complainant, and the notice shall specify the last day for filing an appeal, which

date shall be no earlier than twenty days after the date the letter is mailed.

(7) The complainant may appeal the decision of the council to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the reasons for the appeal. Appeal

(8) The clerk of the municipality who receives a notice of appeal under subsection (7) shall compile a record which shall include, Record

(a) a copy of the development charge by-law certified by the clerk;

(b) an affidavit or declaration certifying that the requirements for the giving of notice have been complied with; and

(c) the original or a true copy of all written submissions and material in support of the complaint.

(9) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information and material that the Board may require in respect of the appeal. Notice and record to O.M.B.

(10) The parties to the appeal are the complainant and the municipality. Parties

(11) The Municipal Board shall hold a hearing notice of which shall be given to the parties to the appeal. Notice of hearing

(12) Despite subsection (11), the Municipal Board may, where it is of the opinion that the complaint set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal. Early dismissal

(13) The Municipal Board may make any decision that could have been made by the council of the municipality. Decision by O.M.B.

(14) If the development charge is amended by the council or by the Municipal Board, the municipality shall immediately refund the difference between the development charge paid that was in dispute and the amount of the charge required by the council or the Municipal Board to be paid. Refund

When charge
is due

9.—(1) A development charge is payable on the date a building permit is issued in relation to a building or structure on land to which a development charge applies.

Effect of
non-payment

(2) Despite any other Act, a municipality is not required to issue a building permit in relation to a building or structure on land to which a development charge applies unless the development charge has been paid.

Exception

(3) Despite subsection (1), a municipality may, in a development charge by-law, provide that a development charge with respect to water supply services, sanitary sewer services, storm drainage services, transportation services and electrical power or energy services shall be payable, with respect to an approval of a plan of subdivision under section 50 of the *Planning Act, 1983*, immediately upon entering into the subdivision agreement.

1983, c. 1

Agreement
respecting
payments

(4) A municipality may enter into an agreement with an owner providing for the payment of a development charge before the date otherwise required for payment under subsection (1) or (3).

Idem

(5) Despite any provision of a development charge by-law, an owner entering into an agreement under subsection (4) is required to pay only the development charge in effect on the date it is payable under the agreement.

Payments
non-trans-
ferable

(6) The payments agreed to under subsection (4) are payable by the owner entering into the agreement and are not transferable to a subsequent owner.

Credits non-
transferable

(7) Credits given under section 13 or 14 to an owner who has entered into an agreement under subsection (4) are not transferable to a subsequent owner.

Exceptions in
agreements

(8) Despite subsections (1) and (3), a municipality may enter into an agreement with an owner providing for the payment of all or any portion of the development charge on dates later than the issuing of a building permit or the entering into of a subdivision agreement.

Services in
lieu of
payment

(9) Despite subsections (1) and (3), a municipality may by agreement permit an owner to provide services in lieu of the payment of all or any portion of a development charge.

Interest

(10) A municipality that has entered into an agreement under subsection (8) may charge interest, at a rate stipulated in the agreement, on that part of the development charge not paid in accordance with subsection (1).

10.—(1) If a development charge is imposed by an upper tier municipality, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the charge has been imposed, the amount of the charge, the manner in which the charge is to be paid and when the charge is due. Upper tier municipalities

(2) The treasurer of the area municipality shall collect the charge imposed by the upper tier municipality when due and shall, unless an extension of time is agreed to by the upper tier municipality, remit the amount of the charge to the treasurer of the upper tier municipality on or before the 25th day of the month following the month in which the charge is received by the area municipality. Collection of development charges

(3) Despite subsection (2), a development charge imposed by an upper tier municipality under subsection 9 (3), (4) or (8) may be collected by the upper tier municipality. Idem

(4) The treasurer of an upper tier municipality that has collected a development charge under subsection (3) shall certify to the treasurer of the area municipality in which the land is located that the charge has been collected. Certification

(5) If building permits are issued by an upper tier municipality, the chief building official of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that all applicable law within the meaning of the *Building Code Act*, except the payment of development charges, has been complied with. Idem
R.S.O. 1980,
c. 51

(6) The treasurer of the area municipality shall, upon receipt of the certificate under subsection (5) and upon payment of all development charges and education development charges under Part III imposed on the development, immediately certify to the chief building official of the upper tier municipality that all development charges and education development charges have been paid. Idem

(7) If building permits are issued by an upper tier municipality, the upper tier municipality may, if agreed to by the area municipality, collect all development charges and education development charges. Delegation of collection powers

11. A municipality that has passed a development charge by-law may register the by-law or a certified copy of it on the land to which it applies. Notice of by-law

12.—(1) If the development charge or any part thereof imposed by a municipality, other than an upper tier municipi- Collection

pality, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

Idem

(2) If the development charge or any part thereof imposed by an upper tier municipality remains unpaid after the due date, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the amount is unpaid and the amount unpaid shall be added to the tax roll of the area municipality and shall be collected as taxes.

Credit for
services

13.—(1) A municipality that permits the provision of services in lieu of the payment of all or any portion of a development charge shall give a credit for an amount equal to the reasonable cost to the owner of providing the services.

Idem

(2) If a municipality and owner enter an agreement that permits an owner to provide services additional to or of a greater size or capacity than is required under a development charge by-law, the municipality may agree to give a credit for an amount up to the reasonable cost to the owner of providing the services.

Idem

(3) A credit given under subsection (2) shall not be charged to a reserve fund established under section 16.

Credits

1983, c. 1

14.—(1) If an owner or a former owner has, before the coming into force of a development charge by-law, paid all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for the amount of the charge paid.

Idem

(2) If an owner or a former owner has, before the coming into force of a development charge by-law, provided services in lieu of the payment of all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for an amount equal to the reasonable cost to the owner or to the former owner of providing the services.

Idem

R.S.O. 1980,
c. 302;
1960-61,
c. 120;
1961-62,
c. 171

(3) If an owner is required to pay a charge to a municipality under a by-law passed under section 215 of the *Municipal Act*, section 4 of *The City of Ottawa Act, 1960-61* or section 1 of *The City of Toronto Act, 1961-62*, the municipality shall reduce the development charge payable under the develop-

ment charge by-law by an amount equal to the charge imposed by that by-law.

(4) If a conflict exists between the provisions of a development charge by-law and an agreement referred to in subsection (1) or (2), the provisions of the agreement prevail to the extent of the conflict. Conflicts

(5) If a conflict exists between the provisions of a development charge by-law and any other agreement between a municipality and an owner or a former owner with respect to land within the area to which the by-law applies, the provisions of the agreement prevail to the extent that there is a conflict. Idem

15.—(1) A municipality shall not levy more than one development charge on land to which a development charge applies even though two or more of the actions described in clauses 3 (1) (a) to (g) are required before that land can be developed. Multiple requirements

(2) Despite subsection (1), if two or more of the actions described in clauses 3 (1) (a) to (g) occur at different times, a municipality may require the payment of an additional development charge if the subsequent action has the effect of increasing the need for services. Idem

16.—(1) Payments received by a municipality under this Part shall be maintained in a separate reserve fund or funds and shall be used only to meet growth-related net capital costs for which the development charge was imposed. Reserve fund

(2) Subsections 165 (2) and (3) of the *Municipal Act* apply with necessary modifications to payments received by a municipality under this Part. R.S.O. 1980, c. 302, s. 165 applies

17. The treasurer of the municipality shall, in each year, on or before such date as council may direct, furnish to the council a statement in respect of each reserve fund established under section 16 containing the information prescribed. Statement of treasurer

18.—(1) A municipality shall pay interest to persons to whom overpayments are refunded under subsection 5 (3), 5 (5) or 8 (14) calculated in the manner prescribed. Interest

(2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid. Idem

(3) The refund shall include the interest owed. Idem

Regulations

19. The Lieutenant Governor in Council may make regulations,

- (a) prescribing, for the purposes of section 3, the manner in which development charges shall be calculated;
- (b) prescribing the number of additional dwelling units and the categories of existing residential buildings for the purposes of clause 3 (2) (b);
- (c) prescribing, for the purposes of section 3, those services for which development charges shall not be imposed;
- (d) prescribing, for the purposes of clause 3 (4) (a), an index or indices that may be used;
- (e) prescribing, for the purposes of subsection 4 (1), the persons that are to be given notice and the manner in which notice is to be given;
- (f) prescribing, for the purposes of subsection 4 (3), the persons and agencies that are to be given notice and the manner and form in which notice is to be given;
- (g) prescribing, for the purposes of subsection 5 (7), the information to be provided in the notice and the persons to whom notice is to be given;
- (h) prescribing, for the purposes of section 13, the manner in which credits shall be calculated;
- (i) prescribing the information to be provided in a statement of the treasurer under section 17;
- (j) prescribing methods of calculating and establishing interest rates under section 18;
- (k) prescribing anything that in Parts I, II and IV of this Act may be prescribed by regulation.

PART II

FRONT-END PAYMENTS

Definition

20. In this Part, “benefiting owner” means an owner of land within a benefiting area other than an owner who is party to a front-ending agreement.

21.—(1) A municipality that has passed a development charge by-law may enter into a front-ending agreement or agreements with any or all owners within a benefiting area providing for the payment by those owners of a front-end payment or for the installation of services by the owners, or any combination thereof.

Front-ending
agreement

(2) A front-ending agreement shall contain,

Contents of
agreement

- (a) a list of the services for which front-end payments shall be made or services installed by the owner;
- (b) the estimated cost of installing the services;
- (c) the proportion of the front-end payment or the cost of the installation of services to be paid by each owner who is a party to the agreement;
- (d) the agreement of the owners to immediately pay to the municipality the actual costs incurred by the municipality in the installation of the services in accordance with the proportions determined under clause (c);
- (e) the agreement of the municipality to immediately reimburse the owners if the actual cost incurred by the municipality in the installation of the services is lower than the estimated cost in accordance with the proportions determined under clause (c);
- (f) a description of the benefiting area for each of the services;
- (g) a list of the services in the agreement for which a development charge is payable;
- (h) a list of the services in the agreement which are services described in subsection 3 (7);
- (i) a description of the manner in which the portion of the payment to be made by each benefiting owner with respect to the services listed in clause (g) is to be calculated;
- (j) if the agreement provides for the installation of services by the owners who are parties to the agreement, the agreement of the municipality to use the reasonable cost to the owners of installing the services in making the calculations under clause (i);

(k) the agreement of the municipality to require each benefiting owner to pay, with respect to the services listed in clause (g), that benefiting owner's portion of the front-end payment; and

(l) the period of time during which the agreement is in force.

Idem

(3) A front-ending agreement may provide that the reasonable costs to the municipality of administering the agreement, including the cost of consultants and studies required in preparation of the agreement, are to be included in calculating the front-end payment.

Idem

(4) A front-ending agreement may provide for the indexing of the payments required to be made by the benefiting owner under clause (2) (k).

Front-ending
agreement

22.—(1) The municipality shall give notice of the front-ending agreement,

(a) by mailing it to all owners within the benefiting area; or

(b) by publishing it in a newspaper having general circulation in the municipality.

Contents of
notice

(2) The notice referred to in subsection (1) shall explain the nature and purpose of the agreement and shall indicate that the agreement can be viewed in the office of the clerk during normal office hours.

Objections

(3) Any owner to whom notice of the agreement is given, except a party to the agreement, may object to the agreement by filing a written objection with the clerk of the municipality within twenty-one days of the date of the giving of the notice of the agreement.

Notice

(4) For the purposes of subsection (3), notice shall be deemed to be given,

(a) where notice is given by mail, on the day the mailing of all required notices is completed; or

(b) where notice is given by publication in a newspaper, on the day that the publication occurs.

Effective
date of
agreement

(5) If no objection is filed within twenty-one days, the agreement shall be deemed to have come into effect on the date it was fully executed.

(6) If an objection is filed, the clerk shall immediately forward it to the Municipal Board. Objections to O.M.B.

(7) The Municipal Board shall hold a hearing and shall confirm the agreement, refuse to confirm the agreement or direct a municipality to make changes to the agreement. Hearing to O.M.B.

(8) If an objection is filed under subsection (3), the agreement comes into effect when approved by the Municipal Board or, if changes are directed by the Board, when the municipality and the other parties to the agreement have executed the agreement as directed to be changed by the Board. Effective date where objection

(9) The parties to the Municipal Board hearing are the municipality, the other parties to the agreement and the owners who filed written objections within the period referred to in subsection (3). Parties

(10) The Municipal Board may, where it is of the opinion that the objection to the agreement is insufficient, dismiss the objection without holding a full hearing, but before dismissing the objection it shall notify the objector and give the objector an opportunity to make representations as to the merits of the objection. Early dismissal of objection

23. Section 64 of the *Ontario Municipal Board Act* does not apply to a front-ending agreement or to special accounts established under sections 27 and 28. O.M.B. approval not required
R.S.O. 1980, c. 347

24. An agreement entered into under section 21 may be registered against the land in the benefiting area, and subject to the *Registry Act* and the *Land Titles Act*, the municipality, Registration
R.S.O. 1980, cc. 445, 230

(a) may enforce the provisions of the agreement against any and all subsequent owners of the lands owned by the parties thereto; and

(b) may enforce the provisions of the agreement made under clauses 21 (2) (d) and (k), subsection 21 (4) and section 26 against any and all owners and subsequent owners of lands in the benefiting area.

25. If a front-ending agreement is in effect, no person shall undertake any development that requires an approval mentioned in subsection 3 (1) within a benefiting area until section 26 has been complied with. Compliance necessary

26. A municipality that has entered into a front-ending agreement shall require a benefiting owner to pay the benefiting owner's portion of the front-end payment as a condition of Payments to parties to agreement

an approval granted during the term of the agreement of any development on that portion of the benefiting owner's land located within the benefiting area.

Special
accounts

27.—(1) The municipality shall place all money received from the parties to the front-ending agreement in a special account and shall use the funds in such account only for,

- (a) paying the actual net cost of the installation of the services specified in the agreement; and
- (b) reimbursing to the parties to the agreement any funds remaining in the account after the installation of the services referred to in clause (a).

Idem

(2) During the term of the agreement the municipality shall provide annually to the parties to the front-ending agreement a statement setting out the particulars of payments made out of the account, the balance remaining in the account and additional payments, if any, that are or will be required from the parties pursuant to the agreement.

Distribution
of section 26
funds

28.—(1) The municipality shall place money received under section 26 in a special account and shall, immediately upon receipt of the money, by registered mail,

- (a) notify the parties to the front-ending agreement that the money is available to be paid out; and
- (b) request the parties to give directions to the municipality as to whom the money is to be paid.

Payment to
party

(2) Upon receipt of a direction from a party to a front-ending agreement, the municipality shall pay to the party named in the direction the proportion of the money received by the municipality to which the party is entitled.

Payment into
court

(3) If within ninety days of mailing the notice under subsection (1) the municipality has not received a direction from a party, the municipality may pay the money owing to that party into the Supreme Court.

Notification
of payment

(4) A municipality that has paid money into court under subsection (3) shall immediately notify the party to whom the money is owing, by registered mail sent to the party's last known address, that,

- (a) the money has been paid into court; and

- (b) the party must apply to the court for the release of the money.

(5) If the party to whom notice was sent, or an heir, successor or assign thereof, has not applied to the court under clause (4) (b) within twelve months of the mailing of the notice, the municipality may apply to the court for the release of the money to the municipality.

Application for release of funds

(6) If the court has not received a request for the release of the money before the application of the municipality is received, it shall release the money to the municipality.

Release of funds

(7) The municipality may place money released by the court in its general account.

Funds to general account

(8) The municipality is required to reimburse the parties to the agreement only when the money referred to in subsection (1) is paid and only in accordance with subsections (1) to (4).

Limited responsibility

(9) Payments made under subsection (1) with respect to services referred to in clause 21 (2) (g) shall be deducted from the amount otherwise payable by an owner pursuant to a development charge by-law.

Deductions

PART III

EDUCATION DEVELOPMENT CHARGES

29.—(1) In this Part,

Definitions

“board” means a board described in paragraph 3 of subsection 1 (1) of the *Education Act*, other than,

R.S.O. 1980, c. 129

- (a) a board established under section 70 of the *Education Act*,
- (b) a board of education for an area municipality in The Municipality of Metropolitan Toronto,
- (c) The Metropolitan Toronto French-Language School Council, and
- (d) The Ottawa-Carleton French-language School Board,

but includes the public sector and the Roman Catholic sector of The Ottawa-Carleton French-language School Board and The Metropolitan Toronto School Board;

“commercial development” means a development other than a residential development;

“education capital cost” means costs incurred or proposed to be incurred by a board,

- (a) to acquire school facilities to provide pupil accommodation,
- (b) to construct, expand, alter or improve school facilities to provide pupil accommodation,
- (c) to furnish or equip the school facilities described in clauses (a) and (b), and
- (d) to undertake studies in connection with any of the matters in clauses (a), (b) and (c);

“education development charge” means a development charge imposed under a by-law passed under section 30 respecting growth-related net education capital costs incurred or proposed to be incurred by a board;

“education development charge by-law” means a by-law passed under subsection 30 (1);

“education development charges account” means an account established in accordance with the regulations for money collected under an education development charge by-law;

“growth-related net education capital cost” means the prescribed portion of the net education capital cost reasonably attributable to the need for such net education capital cost that is attributed to or will result from development in all or part of the area of jurisdiction of a board;

“net education capital cost” means the education capital cost reduced by any capital grants and subsidies paid or that may be paid to the board in respect of such education capital cost;

“owner” means the owner of the land or a person who has made application for an approval for the development of the land upon which an education development charge is imposed;

“pupil accommodation” means a building to accommodate pupils or an addition or alteration to a building that enables the building to accommodate an increased number of pupils;

“school facilities” means a school site described in paragraph 53 of subsection 1 (1) of the *Education Act*.

R.S.O. 1980,
c. 129

(2) In this Part, reference to the area of jurisdiction of a board, in the case of a county combined separate school board or a district combined separate school board, is the area designated by the regulations made under the *Education Act*.

Interpretation

30.—(1) If there is residential development in the area of jurisdiction of a board that would increase education capital costs, the board may pass by-laws for the imposition of education development charges against land undergoing residential and commercial development in that area if the residential and commercial development require,

Education
development
charge by-law

- (a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*; 1983, c. 1
- (b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;
- (c) a conveyance of land to which a by-law passed under subsection 49 (7) of the *Planning Act, 1983* applies;
- (d) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;
- (e) a consent under section 52 of the *Planning Act, 1983*;
- (f) the approval of a description under section 50 of the *Condominium Act*; or
- (g) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

R.S.O. 1980,
c. 84

R.S.O. 1980,
c. 51

(2) Subsection (1) does not apply in respect of an action mentioned in clauses (1) (a) to (g) that would have the effect only,

Exceptions

- (a) of permitting the enlargement of an existing dwelling unit; or
- (b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.

(3) A by-law passed under subsection (1) shall,

Contents of
by-law

- (a) designate the categories of residential development and commercial development upon which an education development charge shall be imposed;
- (b) designate those uses of land, buildings or structures upon which an education development charge shall be imposed;
- (c) designate the areas in which an education development charge shall be imposed; and
- (d) subject to the regulations, establish the education development charges to be imposed in respect of the designated categories of development and the designated uses of land, buildings or structures.

Indexing

(4) A by-law passed under subsection (1) may provide for the indexing of education development charges based on one of the prescribed indices.

Limited exemption

(5) No land, except land owned by and used for the purposes of a board or a municipality, is exempt from an education development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*.

R.S.O. 1980,
c. 31

Interpretation

(6) In subsection (5), “board” has the same meaning as in section 29 except that it includes the boards described in clauses (a) to (d) of that definition.

Conditions

(7) The imposition of an education development charge by a board is subject to the prescribed conditions.

Public meeting

31.—(1) Before passing an education development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the board,

- (a) shall hold at least one public meeting;
- (b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and
- (c) shall ensure that sufficient information is made available to enable the public to understand generally the education development charge proposal.

Right to be heard

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giving of notice have been complied with and any person who

attends the meeting may make representations in respect of the proposed education development charges.

(3) If the board passes an education development charge by-law, other than a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the secretary of the board shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the manner and in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4). Notice of
by-law

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the secretary of the board a notice of appeal setting out the objection to the by-law and the reasons in support of the objection. Appeal

(5) For the purposes of subsection (4), written notice shall be deemed to be given, Timing of
notice

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by mail, on the day that the mailing of all required notices is completed; or
- (c) where notice is given by publication and by mail, on the later of the days that publication occurs or mailing is completed.

(6) The secretary of the board who receives a notice of appeal shall compile a record which shall include, Record

- (a) a copy of the by-law certified by the secretary;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

(7) The secretary of the board shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Municipal Board may require in respect of the appeal. Notice and
record to
O.M.B.

Affidavit,
declaration
conclusive
evidence

(8) An affidavit or declaration of the secretary of the board that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein.

Hearing

(9) The Municipal Board shall hold a hearing notice of which shall be given to such persons or organizations and in such manner as the Municipal Board may determine.

Early
dismissal of
appeal

(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant the opportunity to make representations as to the merits of the appeal.

Determi-
nation by
O.M.B.

(11) The Municipal Board may,

- (a) dismiss the appeal;
- (b) order the board to repeal the by-law in whole or in part or to amend the by-law in accordance with the Municipal Board's order; or
- (c) repeal the by-law in whole or in part or amend the by-law in such manner as the Municipal Board may determine.

Restriction
on
amendments

(12) Despite subsection (11), the Municipal Board may not amend or order the amendment of a by-law so as to,

- (a) increase an education development charge imposed by the by-law; or
- (b) alter the term of the by-law.

When by-law
effective

32.—(1) An education development charge by-law comes into force on the fifth day following the day it is passed or the day specified in the by-law, whichever is later.

Retroactive
repeal

(2) If the Municipal Board orders a board to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law came into force.

Refund

(3) The treasurer of the education development charges account shall refund all education development charges paid under the by-law or that part of the by-law that is repealed under subsection 31 (11),

- (a) if repealed by the Municipal Board, within thirty days of the date of the order of the Municipal Board; or
- (b) if repealed by the board, within thirty days of the date of repeal.

(4) If the Municipal Board orders a board to amend a by-law in whole or in part, that part of the by-law that is amended ceases to be in force and the amendment shall be deemed to have come into force on the date the by-law came into force.

Retroactive amendments

(5) The treasurer of the education development charges account shall refund the difference between the education development charges paid under that part of the by-law that is amended under subsection 31 (11) and the education development charges required to be paid under the amendment,

Refunds

- (a) if the by-law is amended by the Municipal Board, within thirty days of the date of the order of the Municipal Board; or
- (b) if the by-law is amended by the board, within thirty days of the date of the amendment.

(6) A repeal or amendment made under subsection 31 (11) is not subject to appeal under subsection 31 (4).

Restrictions on appeal

(7) A refund under this section shall be paid to the owner and the treasurer of the education development charges account shall inform the municipal treasurer of the amount of the refund.

Direct refund

33.—(1) An education development charge by-law expires five years after the date it comes into force.

Expiration of by-law

(2) Despite subsection (1), a board may,

Idem

- (a) provide in the by-law for a term of less than five years; or
- (b) repeal the by-law.

(3) Despite subsection (1), if an education development charge by-law is in force in respect of an area, the term of an education development charge by-law passed by another board with respect to the same area shall expire on the date of expiration of the first-mentioned by-law.

Concurrent terms

Change of
term

(4) Where a board repeals its education development charge by-law and another board that has jurisdiction in all or part of the same area has passed a by-law that under subsection (3) would expire on the date of expiration of the first-mentioned by-law, that other board may determine that the by-law shall be in effect for up to five years after the date it comes into force and, where it does so, the board shall give notice of its determination to the same persons and in the same manner as provided under subsection 37 (1).

New
education
development
charge by-law

(5) Subject to subsections (6), (7) and (8), a board that has passed an education development charge by-law that is in force may pass a new education development charge by-law.

Review of
policies

(6) Before passing a new education development charge by-law, the board shall conduct a review of the education development charge policies of the board.

Public
meeting

(7) In conducting a review under subsection (6), the board shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the area of jurisdiction of the board.

Idem

(8) Sections 31 and 37 apply with necessary modifications to a by-law under subsection (5).

Amendment

34.—(1) A school board may amend an education development charge by-law and the amendment shall come into force on the fifth day following the date the amendment is passed and the part of the by-law that is amended ceases to be in force on that day.

Idem

(2) Sections 31 and 37 apply with necessary modifications to an amendment made under this section.

Payment of
charge

35.—(1) An education development charge is payable,

- (a) to the municipality in which the development takes place on the date a building permit is issued in relation to a building or structure on land to which an education development charge applies; or
- (b) if the development takes place in territory without municipal organization, to the board that imposed the education development charge thirty days after the board mails a notice to the owner setting out the amount of the charge.

(2) An education development charge imposed by a board in respect of commercial development is the amount determined in the manner prescribed or calculated using the formula prescribed.

Commercial
development

(3) Despite any other Act, a municipality is not required to issue a building permit in relation to a building or structure on land to which an education development charge by-law applies unless the education development charge has been paid.

Charge to be
paid before
building
permit issued

(4) Despite subsection (1), and subject to subsection (5) and the consent of the Minister of Education, a board may by agreement permit an owner to provide school facilities in lieu of the payment of all or any portion of an education development charge and the board,

Facilities in
lieu of
payment

- (a) shall advise the treasurer of the municipality in which the land is situate of the amount of the credit that shall be applied against the education development charge; or
- (b) if the land is located in territory without municipal organization, shall provide a credit to the owner against the educational development charge.

(5) If more than one board has jurisdiction in an area and one or more boards are to receive school facilities under subsection (4), all of the boards that have imposed an education development charge in that area are required to be parties to the agreement.

Necessary
parties

36.—(1) An owner or board may complain in writing to the council of the municipality in which the land is situate or, where the land is situate in territory without municipal organization, an owner may complain to the board that, in respect of the education development charge of that owner,

Complaints

- (a) the amount of the education development charge imposed was incorrect or based on incorrect data;
- (b) there was an error in the application of the education development charge by-law; or
- (c) the amount credited to an owner under subsection 35 (4) is incorrect.

(2) An owner or board may not submit a complaint under subsection (1) after ninety days following the later of,

When
complaint to
be made

- (a) the date a building permit is issued, or if development takes place in territory without municipal organization, the date that the education development charge is payable under clause 35 (1) (b); or
 - (b) the date an agreement is entered into under subsection 35 (4).
- Procedures adopted (3) Subsections 8 (3) to (14) apply with necessary modifications to a complaint under subsection (1).
- Refunds (4) If a final determination of a complaint has been made and a refund is due to the owner, the treasurer of the education development charges account shall pay the amount of the refund to the treasurer of the municipality who shall reimburse the owner.
- Idem (5) If a final determination of a complaint has been made and a refund is due to the school board, the treasurer of the municipality shall pay the amount of the refund to the treasurer of the education development charges account.
- Underpayments (6) If a final determination of a complaint has been made and the owner is required to pay an additional amount, the treasurer of the municipality or, in respect of territory without municipal organization, the treasurer of the board, shall collect the additional amount due from the owner and shall remit the amount to the treasurer of the education development charges account.
- Distribution of by-law **37.**—(1) A board that passes a by-law under subsection 30 (1) shall submit to the treasurer of each municipality all or part of which is made subject to an education development charge a copy of the by-law and provide a copy to the secretary of any other board that has jurisdiction in the same or part of the same area of the board that passed the by-law and forward a copy to the Minister of Education.
- Special accounts (2) Educational development charges accounts shall be established in accordance with the regulations and deposited with a chartered bank listed in Schedule A to the *Bank Act* (Canada) or a trust corporation registered under the *Loan and Trust Corporations Act, 1987*.
- R.S.C. 1985, c. B-1
1987, c. 33
- Territory without municipal organization (3) Where the area of jurisdiction of a board includes territory without municipal organization, all or part of which is made subject to an education development charge, the board shall exercise the powers and duties of a municipal council for such territory in respect of collecting the charge and the offic-

ers of the board have the same powers and duties as similar officers in a municipality.

(4) Where an education development charge is imposed by a board, the treasurer of the municipality or board, as the case requires, shall collect the charge imposed when due and, on or before the 25th day of the month next following the month in which the charge is collected, shall deposit the amount of the charge in the education development charges account established in respect of the by-law under which the charge is imposed. Collection of charge

(5) On or before the fifth day of the month following a month in which a deposit is made under subsection (4), the treasurer of the municipality shall forward to the treasurer of the board or the treasurer of the board shall prepare a statement setting out the prescribed information in respect of the period that began on the 26th day of the month before the preceding month and that ended on the 25th day of the preceding month. Statement

(6) If two or more boards have imposed an education development charge by-law upon an area, the statement mentioned in subsection (5) shall be prepared in respect of the money collected and forwarded to the treasurer of each board that passed a by-law under which the money was collected. Idem

38. A board that has passed an education development charge by-law may register the by-law or a certified copy of it on the land to which it applies. Registration of notice

39. If an education development charge or any part thereof remains unpaid after the due date, the amount unpaid shall be added to the tax roll of the municipality or board, as the case requires and shall be collected as taxes and remitted to the treasurer of the education development charges account established in respect of the by-law under which the education development charge is imposed. Collection

40. On or before the 25th day of the month next following the month in which an education development charge is collected under section 39, the municipality shall pay to the treasurer of the education development charges account all money received in payment of education development charges. Transfer of money

41. If an upper tier municipality issues building permits, subsections 32 (7), 35 (1) and (4) and sections 36, 37 and 40 apply to the upper tier municipality and not to the area municipality. Upper tier municipalities

Interest

42.—(1) The treasurer of the education development charges account shall pay interest out of the account to persons to whom overpayments are refunded under subsections 32 (3) and (5) and 36 (4) calculated in the manner prescribed.

Period during which interest is payable

(2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid.

Payment of interest

(3) The refund shall include the interest owed.

Regulations

43. The Lieutenant Governor in Council may make regulations that may have general or particular application in respect of a board,

- (a) respecting any matter that is referred to as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) governing the establishment and administration of the education development charges account;
- (d) providing for the application, placement in a reserve, withdrawal and use of the money deposited in or accredited to an education development charges account and requiring the approval of the Minister in respect of the manner in which or the rate at which the money is withdrawn;
- (e) prescribing the powers of the treasurer of the education development charges account in relation to the withdrawal of funds;
- (f) requiring the approval of the Minister of Education to any factor, criterion, rate, amount, portion, estimate or project used in determining an education development charge;
- (g) prescribing the manner of calculating or determining education development charges and prescribing classes of persons that may make determinations necessary for the calculation of education development charges;
- (h) providing for the sharing of proceeds where more than one board establishes a charge in respect of the same area;
- (i) prescribing, for the purposes of subsection 30 (4), an index or indices that may be used;

- (j) prescribing information which boards must provide to other boards and to the Minister for the purposes of developing education development charges under this Part;
- (k) prescribing methods of calculating and establishing interest rates under section 42;
- (l) prescribing the manner in which notice shall be given wherever notice is required under this Part, the persons and agencies to whom notice shall be given, and the form of the notice;
- (m) prescribing the terms of agreements for credit in lieu of payment of education development charges, determining the amount of the credit and governing the allocation of the credit between or among boards;
- (n) requiring a board to exempt an owner from an educational development charge if the owner meets the prescribed conditions.

PART IV

GENERAL

44.—(1) A by-law or resolution providing for the payment of charges related to development that is in effect on the date of the coming into force of this Act shall remain in effect until the earliest of,

Existing
development
charges
by-law

- (a) the repeal of the by-law or resolution;
- (b) the coming into force of a by-law under section 3;
or
- (c) two years after the date of the coming into force of this Act.

(2) A by-law or resolution referred to in subsection (1) shall not be amended during the period it remains in effect.

No
amendments
permitted

(3) Subsection (1) does not apply with respect to a by-law referred to in subsection 14 (3) or to a by-law passed under section 41 of the *Planning Act, 1983*.

Exceptions

45.—(1) A municipality shall not enter into an agreement under section 50 or 52 of the *Planning Act, 1983* that imposes

Certain
agreements
under
1983, c. 1

a charge related to a development, except a charge referred to in subsection 3 (7), after the earlier of,

- (a) the coming into force of a by-law under section 3;
or
- (b) two years after the date of the coming into force of this Act.

Idem

(2) An agreement with respect to charges related to development made under section 50 or 52 of the *Planning Act, 1983* that is in effect on the earlier of the dates referred to in clauses (1) (a) and (b) remains in effect.

Referrals to
continue

46.—(1) A request made before the coming into force of this Act for a referral under subsection 50 (17) of the *Planning Act, 1983* with respect to a condition relating to a charge related to development shall be continued and disposed of under the *Planning Act, 1983*.

Appeals
under
1983, c. 1
continued

(2) An appeal made before the coming into force of this Act under subsection 52 (7) of the *Planning Act, 1983* with respect to a condition relating to a charge related to development shall continue and be disposed of under the *Planning Act, 1983*.

Conflicts

(3) If a decision of the Municipal Board respecting a matter mentioned under subsection (1) or (2) conflicts with a development charge by-law, the decision of the Board prevails to the extent of the conflict.

Agreements
not affected
1983, c. 1

47. Except as stated herein, this Act does not affect an agreement made under section 50 or 52 of the *Planning Act, 1983*.

No right of
petition
R.S.O. 1980,
c. 347

48. Despite section 94 of the *Ontario Municipal Board Act*, there is no right to file a petition under that section in respect of any order or decision of the Municipal Board made in respect of any matter appealed to the Board under this Act.

Conflicts

49. In the event of conflict between the provisions of this Act and any other general or special Act, the provisions of this Act prevail.

Commence-
ment

50. This Act comes into force on the day it receives Royal Assent.

Short title

51. The short title of this Act is the *Development Charges Act, 1989*.

Bill 21

An Act to amend the Fuel Tax Act, 1981

The Hon. B. Grandmaître

Minister of Revenue



1st Reading May 17th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to implement the Treasurer's 1989 Budget proposal to increase, effective May 18, 1989, the tax on clear fuel for general use from 9.9 cents to 10.9 cents per litre and the tax on clear fuel used in railway equipment from 3.1 cents to 3.4 cents per litre.

Bill 21**1989****An Act to amend the Fuel Tax Act, 1981**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 (1) of the *Fuel Tax Act, 1981*, being chapter 59, as re-enacted by the Statutes of Ontario, 1985, chapter 23, section 2, is repealed and the following substituted therefor:

(1) Every person who is a collector, importer, registered consumer or purchaser shall pay to the Treasurer a tax at the rate of,

Tax on clear
fuel

- (a) 10.9 cents per litre on each litre of clear fuel received or used by the person in Ontario to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system; and
- (b) 3.4 cents per litre on each litre of clear fuel received or used by the person in Ontario to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

2. This Act shall be deemed to have come into force on the 18th day of May, 1989.

Commence-
ment

3. The short title of this Act is the *Fuel Tax Amendment Act, 1989*.

Short title

Bill 21

An Act to amend the Fuel Tax Act, 1981

The Hon. B. Grandmaître
Minister of Revenue



1st Reading May 17th, 1989
2nd Reading June 26th, 1989
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The definitions are complementary to the amendments set out in sections 3 and 4 of the Bill.

SECTION 2. This amendment implements the Treasurer's 1989 Budget proposal to increase, effective May 18, 1989, the tax on clear fuel for general use from 9.9 cents to 10.9 cents per litre and the tax on clear fuel used in railway equipment from 3.1 cents to 3.4 cents per litre.

SECTION 3. This amendment sets out the collection and remittance obligations of importers, and requires importers who are not collectors to account for the tax they may be obliged to collect and to pay at the point of entry into Ontario to officials authorized by the Minister.

SECTION 4. This amendment permits officials authorized by the Minister at border points to request the specified information from those transporting bulk fuel and to detain a motor vehicle until correct information is provided and until the required remittance and returns are made by the importer.

Bill 21

1989

An Act to amend the Fuel Tax Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Fuel Tax Act, 1981*, being chapter 59, as amended by the Statutes of Ontario, 1985, chapter 23, section 1, is further amended by adding thereto the following clause:

(ha) “fuel in bulk” means fuel transported or transferred by any means other than in a fuel tank of a motor vehicle in which fuel for generating power in the motor vehicle is kept.

(2) Clause 1 (j) of the said Act is repealed and the following substituted therefor:

(j) “importer” means a person who brings or causes to be brought into Ontario fuel in bulk.

2. Subsection 4 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 23, section 2, is repealed and the following substituted therefor:

(1) Every person who is a collector, importer, registered consumer or purchaser shall pay to the Treasurer a tax at the rate of,

Tax on clear
fuel

- (a) 10.9 cents per litre on each litre of clear fuel received or used by the person in Ontario to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system; and
- (b) 3.4 cents per litre on each litre of clear fuel received or used by the person in Ontario to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.



3. Subsections 11 (5) and (6) of the said Act are repealed and the following substituted therefor:

Collection
of tax

(5) Every importer shall, at the times and in the manner prescribed, collect from any wholesaler, retail dealer or purchaser, to whom the importer sells fuel, the tax collectable and payable under this Act and, for that purpose, every importer is an agent of the Minister for the collection of the tax imposed by this Act.

Transmission
of tax

(6) Every importer who is a collector shall remit to the Treasurer, at the times and in the manner prescribed, the tax collectable and payable by the importer in respect of the fuel imported by that person.

Security

(7) At the time of entry into Ontario from outside Canada of clear fuel, every importer who is not a collector shall remit to the Treasurer,

- (a) an amount as security equal to the tax under subsection (5) that the importer would be obliged to collect on such clear fuel upon resale of the fuel in Ontario; and
- (b) the tax payable by the importer under subsection 4 (1).

Payment

(8) The remittance required by subsection (7) shall be made to a person authorized by the Minister for forwarding to the Treasurer by certified cheque or money order, payable to the Treasurer.

Returns

(9) Every importer shall, at the time and in the manner prescribed, deliver to the Minister or to a person authorized by the Minister a return with respect to the fuel imported by the importer.

4. Subsections 19 (1) and (2) of the said Act are repealed and the following substituted therefor:

Fuel in bulk

(1) Every person carrying fuel in bulk, and the operator of every motor vehicle carrying fuel in bulk, shall, when requested by the Minister or any person authorized by the Minister, give written evidence to the requester of any or all of the following information,

- (a) the name and address of any person from whom the fuel was obtained and the name and address of any

person to whom the fuel so obtained was delivered or is to be delivered;

- (b) the quantity of fuel delivered or to be delivered to any person;
- (c) the use or intended use, if known, to be made of any fuel delivered or to be delivered from such motor vehicle.

(2) The Minister or a person authorized by the Minister Detention may detain a motor vehicle carrying fuel in bulk where,

- (a) written evidence requested under subsection (1) is not given;
- (b) the information in the written evidence that is given is false; or
- (c) the importer fails to comply with subsection 11 (7) or fails to deliver any return in accordance with subsection 11 (9).

(2a) The Minister or a person authorized by the Minister Time may detain a motor vehicle under subsection (2) until the written evidence is given, the true information is given, the remittance required by subsection 11 (7) is delivered or the return in accordance with subsection 11 (9) is delivered, as the case requires.

(2b) During any detention under subsection (2), the Liability Crown, or any person acting in the administration and enforcement of this Act, is not liable for any damage to the motor vehicle, its contents, cargo or freight, or to its owner or driver or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending compliance with subsection (1) and subsections 11 (7) and (9).

5.—(1) Subject to subsection (2), this Act shall be deemed Commence- to have come into force on the 18th day of May, 1989. ment

(2) Sections 1, 3 and 4 shall come into force on a day to be Idem named by proclamation of the Lieutenant Governor. 

6. The short title of this Act is the *Fuel Tax Amendment* Short title *Act, 1989.*

Bill 21

*(Chapter 37
Statutes of Ontario, 1989)*

An Act to amend the Fuel Tax Act, 1981

The Hon. B. Grandmaître
Minister of Revenue

<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

Bill 21**1989****An Act to amend the Fuel Tax Act, 1981**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Fuel Tax Act, 1981*, being chapter 59, as amended by the Statutes of Ontario, 1985, chapter 23, section 1, is further amended by adding thereto the following clause:

- (ha) “fuel in bulk” means fuel transported or transferred by any means other than in a fuel tank of a motor vehicle in which fuel for generating power in the motor vehicle is kept.

(2) Clause 1 (j) of the said Act is repealed and the following substituted therefor:

- (j) “importer” means a person who brings or causes to be brought into Ontario fuel in bulk.

2. Subsection 4 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 23, section 2, is repealed and the following substituted therefor:

(1) Every person who is a collector, importer, registered consumer or purchaser shall pay to the Treasurer a tax at the rate of,

Tax on clear
fuel

- (a) 10.9 cents per litre on each litre of clear fuel received or used by the person in Ontario to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system; and
- (b) 3.4 cents per litre on each litre of clear fuel received or used by the person in Ontario to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

3. Subsections 11 (5) and (6) of the said Act are repealed and the following substituted therefor:

Collection
of tax

(5) Every importer shall, at the times and in the manner prescribed, collect from any wholesaler, retail dealer or purchaser, to whom the importer sells fuel, the tax collectable and payable under this Act and, for that purpose, every importer is an agent of the Minister for the collection of the tax imposed by this Act.

Transmission
of tax

(6) Every importer who is a collector shall remit to the Treasurer, at the times and in the manner prescribed, the tax collectable and payable by the importer in respect of the fuel imported by that person.

Security

(7) At the time of entry into Ontario from outside Canada of clear fuel, every importer who is not a collector shall remit to the Treasurer,

(a) an amount as security equal to the tax under subsection (5) that the importer would be obliged to collect on such clear fuel upon resale of the fuel in Ontario; and

(b) the tax payable by the importer under subsection 4 (1).

Payment

(8) The remittance required by subsection (7) shall be made to a person authorized by the Minister for forwarding to the Treasurer by certified cheque or money order, payable to the Treasurer.

Returns

(9) Every importer shall, at the time and in the manner prescribed, deliver to the Minister or to a person authorized by the Minister a return with respect to the fuel imported by the importer.

4. Subsections 19 (1) and (2) of the said Act are repealed and the following substituted therefor:

Fuel in bulk

(1) Every person carrying fuel in bulk, and the operator of every motor vehicle carrying fuel in bulk, shall, when requested by the Minister or any person authorized by the Minister, give written evidence to the requester of any or all of the following information,

(a) the name and address of any person from whom the fuel was obtained and the name and address of any person to whom the fuel so obtained was delivered or is to be delivered;

- (b) the quantity of fuel delivered or to be delivered to any person;
- (c) the use or intended use, if known, to be made of any fuel delivered or to be delivered from such motor vehicle.

(2) The Minister or a person authorized by the Minister may detain a motor vehicle carrying fuel in bulk where, Detention

- (a) written evidence requested under subsection (1) is not given;
- (b) the information in the written evidence that is given is false; or
- (c) the importer fails to comply with subsection 11 (7) or fails to deliver any return in accordance with subsection 11 (9).

(2a) The Minister or a person authorized by the Minister may detain a motor vehicle under subsection (2) until the written evidence is given, the true information is given, the remittance required by subsection 11 (7) is delivered or the return in accordance with subsection 11 (9) is delivered, as the case requires. Time

(2b) During any detention under subsection (2), the Crown, or any person acting in the administration and enforcement of this Act, is not liable for any damage to the motor vehicle, its contents, cargo or freight, or to its owner or driver or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending compliance with subsection (1) and subsections 11 (7) and (9). Liability

5.—(1) Subject to subsection (2), this Act shall be deemed to have come into force on the 18th day of May, 1989. Commence-
ment

(2) Sections 1, 3 and 4 shall come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

6. The short title of this Act is the *Fuel Tax Amendment Act, 1989*. Short title

Bill 22

An Act to amend the Retail Sales Tax Act

The Hon. B. Grandmaître

Minister of Revenue



1st Reading May 17th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Treasurer's Budget of May 17, 1989 and, in addition, contains administrative changes and clarifications.

SECTION 1. The amendments to paragraph 4 of section 1 of the Act provide that tax paid under the *Excise Act* (Canada) and under sections 2b and 2c of the Act, if applicable, are included in the fair value of tangible personal property for the purpose of determining the amount of 8 per cent retail sales tax.

SECTION 2. The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill.

SECTIONS 3 and 4. The enactment of sections 2b and 2c implement the Treasurer's Budget proposal of imposing an additional tax of \$5 on the purchase of new pneumatic tires and an additional tax ranging between \$600 and \$3,500 on the purchase of new fuel inefficient passenger cars having highway fuel consumption ratings of 9.5 litres or more per 100 kilometres.

SECTION 5.—Subsection 1. The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill as most of the current exemptions from 8 per cent retail sales tax will not apply to the tax on fuel inefficient cars.

Subsection 2. The amendment implements the Treasurer's Budget proposal of removing the tax exemption on the purchase of agricultural products by persons other than farmers.

Subsection 3. The amendment is consequential upon the enactment of the *National Transportation Act, 1987* (Canada) which replaced part of the *Aeronautics Act* (Canada).

SECTION 6. The amendment provides that any person, and not just the officers, directors or agents of a corporation, who is involved in the commission of an offence by the corporation may be prosecuted for the offence.

SECTION 7.—Subsection 1. The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill.

Subsection 2. The amendment implements the Treasurer's Budget proposal to extend the qualification period for the rebate of tax on motor vehicles converted to alternate fuels to 180 days where the purchaser has placed a written order for the conversion within ninety days of purchase.

Subsections 3, 4, 5 and 6. The amendments authorize the making of regulations providing for,

- (a) a rebate of tax payable under section 2c on the acquisition of a new fuel inefficient car where the car is converted to operate only on alternate fuel;
- (b) the computation, payment and collection of the tax on new tires and new fuel inefficient cars when the car is leased or rented, instead of owned, by a taxpayer; and
- (c) a rebate or partial rebate of tax paid on the purchase of motor vehicles to transport the physically disabled.

Bill 22

1989

An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause (ba) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1989, chapter 15, section 1, is amended by inserting after “*Excise Tax Act (Canada)*” in the second line “or the *Excise Act (Canada)*”.

(2) Paragraph 4 of section 1 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 1, 1983, chapter 27, section 1 and 1989, chapter 15, section 1, is further amended by striking out “and” at the end of clause (e), by adding “and” at the end of clause (f) and by adding thereto the following clause:

(g) any tax payable by the purchaser under section 2b or 2c,

.

2. Subsection 2 (14) of the said Act is amended by adding at the end thereof “together with any tax payable under section 2b or 2c”.

3. The said Act is amended by adding thereto the following section:

2b.—(1) Every purchaser of a new pneumatic tire, other than a purchaser referred to in subsection (2), shall pay to Her Majesty in right of Ontario a tax of \$5 in respect of the consumption or use of the tire.

Tax on new
pneumatic
tires

(2) The purchaser of a new pneumatic tire is exempt from the tax imposed by this section if,

Exemptions

- (a) the tire is acquired by the purchaser as part of tangible personal property acquired by the purchaser and the purchaser is exempt under subsection 5 (1) from the tax imposed by section 2 in respect of the purchase of the tangible personal property;
- (b) the tire is acquired by the purchaser in replacement of a tire described in clause (a); or
- (c) the tire is attached to or is designed for use on a bicycle, a tricycle or a toy, as defined by the Minister.

Definition of
"sale" and
"first sale"

(3) For the purposes of this section,

- (a) any sale of tangible personal property to which a tire is attached, or in connection with which the tire is supplied, is a sale of the tire;
- (b) the first sale of a pneumatic tire means the first sale of the tire that is,
 - (i) a retail sale,
 - (ii) a lease or rental for a term of at least seven days of tangible personal property to which the tire is attached, or in connection with which the tire is supplied, or
 - (iii) a transfer by a vendor, under the terms of a lease or rental agreement referred to in subclause (ii), of the tire in replacement of another tire;
- (c) a purchaser shall be considered to acquire a new pneumatic tire on the date on which,
 - (i) the purchaser acquires the pneumatic tire at the first sale of the tire, if the first sale is in Ontario,
 - (ii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of tangible personal property, other than a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the first sale of the tire was outside of Ontario within the previous six months, or

- (iii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the motor vehicle is a current or prior year model, as defined by the Minister, and the first sale of the tire was outside of Ontario.

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c. 198

4. The said Act is further amended by adding thereto the following section:

2c.—(1) Every purchaser of a new fuel inefficient car, other than a car which is a settler's effect referred to in paragraph 71 of subsection 5 (1) or tangible personal property referred to in paragraph 73 of subsection 5 (1), shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use of the car in the amount determined under subsection (3).

Tax on new
fuel
inefficient
passenger
cars

(2) For the purposes of this section,

Definition of
"fuel
inefficient
car" and
"new fuel
inefficient
car"

- (a) a fuel inefficient car is a passenger car, as defined by the Minister, having a highway fuel consumption rating, as determined under subsection (4), of 9.5 or more litres of gasoline or diesel fuel per 100 kilometres; and
- (b) a purchaser shall be considered to be the purchaser of a new fuel inefficient car where,
 - (i) the first sale of the fuel inefficient car to a purchaser is in Ontario and is a retail sale of the car to the purchaser or a rental or lease to the purchaser of the fuel inefficient car for a term of at least one year,
 - (ii) the first sales of the fuel inefficient car to purchasers are in Ontario on or after the 1st day of July, 1989, and are leases or rentals of the car for terms less than one year, and the purchaser acquires the car at such a sale within 180 days of the first such sale,
 - (iii) the first sale of the fuel inefficient car to a purchaser is outside of Ontario on or after the 1st day of July, 1989, and, on the date the purchaser thereof is required under subsection 2 (14) to pay the tax imposed by section 2, the

car is a current or prior year model as defined by the Minister.

Amount of
tax

(3) The amount of tax payable under subsection (1) by a purchaser of a new fuel inefficient car shall be the amount of tax appearing in the following table opposite the range of highway fuel consumption ratings which includes the highway fuel consumption rating of the car, except that the total amount of tax payable under this section by all purchasers referred to in subclause (2) (b)(ii) in respect of the same car shall not exceed the amount of tax otherwise determined under this subsection, and each such purchaser shall pay such portion of the total amount of tax which, in the Minister's opinion, reasonably represents the use of the car by that purchaser during the 180 days referred to in subclause (2) (b)(ii):

Highway Fuel Consumption Ratings

<i>Litres per 100 kilometres</i>	<i>Tax</i>
9.5 - 12.0	\$ 600
12.1 - 15.0	\$1,200
15.1 - 18.0	\$2,200
over 18.0	\$3,500

Highway fuel
consumption
rating

(4) For the purposes of this section, the highway fuel consumption rating of a car shall be deemed to be the least of,

- (a) the highway fuel consumption rating of the car provided by the manufacturer thereof, if such rating is available to the vendor and purchaser of the car at the date of sale of the car;
- (b) the highway fuel consumption rating most recently published by the Department of Transport (Canada) of cars matching the description of the car, if such a publication is available publicly at the date of sale of the car; or
- (c) 18.1 litres per 100 kilometres.

Rebates and
assessments
of additional
tax

(5) Where the highway fuel consumption rating of a car is subsequently determined, in a manner prescribed by the Minister, to be less than or greater than the rating used in the determination of an amount of tax payable by the purchaser under this section, the Minister may,

- (a) where the subsequent rating is less, rebate with interest to the purchaser, upon receipt of an application therefor in the manner and within the time prescribed by the Minister, the amount of tax paid

by the purchaser under this section in excess of the amount of tax that would have been determined using the subsequent rating; or

- (b) where the subsequent rating is greater, assess or reassess the tax payable by the purchaser under this section together with interest from the date the car was acquired.

5.—(1) Subsection 5 (1) of the said Act is amended by striking out “this Act” in the third line and inserting in lieu thereof “section 2”.

(2) Paragraph 17 of subsection 5 (1) of the said Act is repealed.

(3) Paragraph 26 of subsection 5 (1) of the said Act is amended by inserting after “thereunder” in the sixth line “or the *National Transportation Act, 1987* (Canada) or regulations made thereunder,”.

6. Section 40 of the said Act is repealed and the following substituted therefor:

40. Any officer, director or agent of a corporation, or any other person, who directed, authorized, assented to, acquiesced in or participated in the commission of any act by the corporation which is an offence under this Act, or the omission of any act the omission of which is an offence under this Act, is guilty of an offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted of any offence under this Act.

Officers, etc.,
of
corporation

7.—(1) Clause 45 (3) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 66, section 12, is amended by inserting after “tax” in the first line “imposed by section 2”.

(2) Subclauses (ii) and (iii) of clause 45 (3) (i) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 12, are repealed and the following substituted therefor:

- (ii) a vehicle that is powered by a gasoline or diesel engine and for which a permit is required under the *Highway Traffic Act*, and any tangible personal property sold as a conversion kit, including the labour provided to install the conversion kit, where the purchaser enters into a written contract for the conversion of

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the vehicle within ninety days of the date of sale, and the vehicle is in fact converted to permit it to operate in a manner described in sub-subclause (i)(A) or (B) within 180 days of the date of sale of the vehicle, or

- (iii) tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that operates in the manner described in sub-subclause (i)(A) or (B), including the labour to install the kit, where the vehicle is not so converted within 180 days of the date of sale of the vehicle,

.

(3) Subsection 45 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16 and 1986, chapter 66, section 12, is further amended by adding thereto the following clause:

- (k) providing for the rebate of any tax paid by a purchaser under section 2c, where the purchaser is entitled to a rebate referred to in subclause (i)(ii), in connection with the conversion of the vehicle to permit it to operate in the manner described in sub-subclause (i)(A).

(4) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (l) providing for the computation, payment and collection of tax imposed by section 2b, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

(5) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (m) providing for the computation, payment and collection of tax imposed by section 2c, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

(6) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (n) providing for a rebate or a partial rebate of tax paid on motor vehicles purchased to transport physically disabled persons.

8.—(1) Except as provided in subsections (2) to (5), this Act comes into force on the day it receives Royal Assent. Commence-
ment

(2) Subsection 1 (1) shall be deemed to have come into force on the 2nd day of May, 1988. Idem

(3) Subsection 7 (2) comes into force on the 18th day of May, 1989 and applies in respect of motor vehicles purchased on, before or after that date. Idem

(4) Subsection 1 (2), sections 2, 3 and 5 and subsections 7 (1), (4) and (6) come into force on the 1st day of June, 1989. Idem

(5) Section 4 and subsections 7 (3) and (5) come into force on the 1st day of July, 1989. Idem

9. The short title of this Act is the *Retail Sales Tax Amendment Act, 1989*. Short title

Bill 22

An Act to amend the Retail Sales Tax Act

The Hon. B. Grandmaître
Minister of Revenue



1st Reading May 17th, 1989
2nd Reading June 26th, 1989
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Treasurer's Budget of May 17, 1989 and, in addition, contains administrative changes and clarifications.

SECTION 1. The amendments to paragraph 4 of section 1 of the Act provide that tax paid under the *Excise Act* (Canada) and under sections 2b and 2c of the Act, if applicable, are included in the fair value of tangible personal property for the purpose of determining the amount of 8 per cent retail sales tax.

SECTION 2. The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill.

SECTIONS 3 and 4. The enactment of sections 2b and 2c implement the Treasurer's Budget proposal of imposing an additional tax of \$5 on the purchase of new pneumatic tires and an additional tax ranging between \$600 and \$3,500 on the purchase of new fuel inefficient passenger cars.

SECTION 5.—Subsection 1. The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill as most of the current exemptions from 8 per cent retail sales tax will not apply to the tax on fuel inefficient cars.

Subsection 2. The amendment implements the Treasurer's Budget proposal of removing the tax exemption on the purchase of agricultural products by persons other than farmers.

Subsection 3. The amendment is consequential upon the enactment of the *National Transportation Act, 1987* (Canada) which replaced part of the *Aeronautics Act* (Canada).

SECTION 6. The amendment provides that any person, and not just the officers, directors or agents of a corporation, who is involved in the commission of an offence by the corporation may be prosecuted for the offence.

SECTION 7.—Subsection 1. The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill.

Subsection 2. The amendment implements the Treasurer's Budget proposal to extend the qualification period for the rebate of tax on motor vehicles converted to alternate fuels to 180 days where the purchaser has placed a written order for the conversion within ninety days of purchase.

Subsections 3, 4, 5 and 6. The amendments authorize the making of regulations providing for,

- (a) a rebate of tax payable under section 2c on the acquisition of a new fuel inefficient car where the car is converted to operate only on alternate fuel;
- (b) the computation, payment and collection of the tax on new tires and new fuel inefficient cars when the car is leased or rented, instead of owned, by a taxpayer; and
- (c) a rebate or partial rebate of tax paid on the purchase of motor vehicles to transport the physically disabled.

Bill 22

1989

An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause (ba) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1989, chapter 15, section 1, is amended by inserting after “*Excise Tax Act (Canada)*” in the second line “or the *Excise Act (Canada)*”.

(2) Paragraph 4 of section 1 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 1, 1983, chapter 27, section 1 and 1989, chapter 15, section 1, is further amended by striking out “and” at the end of clause (e), by adding “and” at the end of clause (f) and by adding thereto the following clause:

(g) any tax payable by the purchaser under section 2b or 2c,

.

2. Subsection 2 (14) of the said Act is amended by adding at the end thereof “together with any tax payable under section 2b or 2c”.

3. The said Act is amended by adding thereto the following section:

2b.—(1) Every purchaser of a new pneumatic tire, other than a purchaser referred to in subsection (2), shall pay to Her Majesty in right of Ontario a tax of \$5 in respect of the consumption or use of the tire.

Tax on new
pneumatic
tires

(2) The purchaser of a new pneumatic tire is exempt from the tax imposed by this section if,

Exemptions

- (a) the tire is acquired by the purchaser as part of tangible personal property acquired by the purchaser and the purchaser is exempt under subsection 5 (1) from the tax imposed by section 2 in respect of the purchase of the tangible personal property;
- (b) the tire is acquired by the purchaser in replacement of a tire described in clause (a); or
- (c) the tire is attached to or is designed for use on any class or classes of tangible personal property prescribed by the Minister.

Definition of
"sale" and
"first sale"

(3) For the purposes of this section,

- (a) any sale of tangible personal property to which a tire is attached, or in connection with which the tire is supplied, is a sale of the tire;
- (b) the first sale of a pneumatic tire means the first sale of the tire that is,
 - (i) a retail sale,
 - (ii) a lease or rental for a term of at least seven days of tangible personal property to which the tire is attached, or in connection with which the tire is supplied, or
 - (iii) a transfer by a vendor, under the terms of a lease or rental agreement referred to in sub-clause (ii), of the tire in replacement of another tire;
- (c) a purchaser shall be considered to acquire a new pneumatic tire on the date on which,
 - (i) the purchaser acquires the pneumatic tire at the first sale of the tire, if the first sale is in Ontario,
 - (ii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of tangible personal property, other than a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the first sale of the tire was outside of Ontario within the previous six months, or

- (iii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the motor vehicle is a current or prior year model, as defined by the Minister, and the first sale of the tire was outside of Ontario.

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c. 198

4. The said Act is further amended by adding thereto the following section:

2c.—(1) Every purchaser of a new fuel inefficient car, other than a car which is a settler's effect referred to in paragraph 71 of subsection 5 (1) or tangible personal property referred to in paragraph 73 of subsection 5 (1), shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use of the car in the amount determined under subsection (3).

Tax on new
fuel
inefficient
passenger
cars

(2) For the purposes of this section,

Definition of
"fuel
inefficient
car" and
"new fuel
inefficient
car"

- (a) a fuel inefficient car is a passenger car, as defined by the Minister, having a highway fuel consumption rating, as determined under subsection (4), of 9.5 or more litres of gasoline or diesel fuel per 100 kilometres; and
- (b) a purchaser shall be considered to be the purchaser of a new fuel inefficient car where,
 - (i) the first sale of the fuel inefficient car to a purchaser is in Ontario and is a retail sale of the car to the purchaser or a rental or lease to the purchaser of the fuel inefficient car for a term of at least one year,
 - (ii) the first sales of the fuel inefficient car to purchasers are in Ontario on or after the 1st day of July, 1989, and are leases or rentals of the car for terms less than one year, and the purchaser acquires the car at such a sale within 180 days of the first such sale,
 - (iii) the first sale of the fuel inefficient car to a purchaser is outside of Ontario on or after the 1st day of July, 1989, and, on the date the purchaser thereof is required under subsection 2 (14) to pay the tax imposed by section 2, the

car is a current or prior year model as defined by the Minister.

Amount of tax

(3) The amount of tax payable under subsection (1) by a purchaser of a new fuel inefficient car shall be the amount of tax appearing in the following table opposite the range of highway fuel consumption ratings which includes the highway fuel consumption rating of the car, except that the total amount of tax payable under this section by all purchasers referred to in subclause (2) (b)(ii) in respect of the same car shall not exceed the amount of tax otherwise determined under this subsection, and each such purchaser shall pay such portion of the total amount of tax which, in the Minister's opinion, reasonably represents the use of the car by that purchaser during the 180 days referred to in subclause (2) (b)(ii):

Highway Fuel Consumption Ratings

<i>Litres per 100 kilometres</i>	<i>Tax</i>
9.5 - 12.0	\$ 600
12.1 - 15.0	\$1,200
15.1 - 18.0	\$2,200
over 18.0	\$3,500

Highway fuel consumption rating

(4) For the purposes of this section, the highway fuel consumption rating of a passenger car shall be deemed to be the lesser of,

- (a) the highway fuel consumption rating most recently published by the Department of Transport (Canada) of cars matching the description of the passenger car, if such a publication is available publicly at the date of sale of the passenger car; or
- (b) 18.1 litres per 100 kilometres.

Rebates and assessments of additional tax

(5) Where the highway fuel consumption rating of a car is subsequently determined, in a manner prescribed by the Minister, to be less than or greater than the rating used in the determination of an amount of tax payable by the purchaser under this section, the Minister may,

- (a) where the subsequent rating is less, rebate with interest to the purchaser, upon receipt of an application therefor in the manner and within the time prescribed by the Minister, the amount of tax paid by the purchaser under this section in excess of the amount of tax that would have been determined using the subsequent rating; or

- (b) where the subsequent rating is greater, assess or reassess the tax payable by the purchaser under this section together with interest from the date the car was acquired.

5.—(1) Subsection 5 (1) of the said Act is amended by striking out “this Act” in the third line and inserting in lieu thereof “section 2”.

(2) Paragraph 17 of subsection 5 (1) of the said Act is repealed.

(3) Paragraph 26 of subsection 5 (1) of the said Act is amended by inserting after “thereunder” in the sixth line “or the *National Transportation Act, 1987* (Canada) or regulations made thereunder,”.

6. Section 40 of the said Act is repealed and the following substituted therefor:

40. Any officer, director or agent of a corporation, or any other person, who directed, authorized, assented to, acquiesced in or participated in the commission of any act by the corporation which is an offence under this Act, or the omission of any act the omission of which is an offence under this Act, is guilty of an offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted of any offence under this Act.

Officers, etc.,
of
corporation

7.—(1) Clause 45 (3) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 66, section 12, is amended by inserting after “tax” in the first line “imposed by section 2”.

(2) Subclauses (ii) and (iii) of clause 45 (3) (i) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 12, are repealed and the following substituted therefor:

- (ii) a vehicle that is powered by a gasoline or diesel engine and for which a permit is required under the *Highway Traffic Act*, and any tangible personal property sold as a conversion kit, including the labour provided to install the conversion kit, where the purchaser enters into a written contract for the conversion of the vehicle within ninety days of the date of sale, and the vehicle is in fact converted to permit it to operate in a manner described in

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sub-subclause (i)(A) or (B) within 180 days of the date of sale of the vehicle, or

- (iii) tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that operates in the manner described in sub-subclause (i)(A) or (B), including the labour to install the kit, where the vehicle is not so converted within 180 days of the date of sale of the vehicle,

.

(3) Subsection 45 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16 and 1986, chapter 66, section 12, is further amended by adding thereto the following clause:

- (k) providing for the rebate of any tax paid by a purchaser under section 2c, where the purchaser is entitled to a rebate referred to in subclause (i)(ii), in connection with the conversion of the vehicle to permit it to operate in the manner described in sub-subclause (i)(i)(A).

(4) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (l) providing for the computation, payment and collection of tax imposed by section 2b, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

(5) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (m) providing for the computation, payment and collection of tax imposed by section 2c, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

(6) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (n) providing for a rebate or a partial rebate of tax paid on motor vehicles purchased to transport physically disabled persons.

8.—(1) Except as provided in subsections (2) to (5), this Act comes into force on the day it receives Royal Assent. Commence-
ment

(2) Subsection 1 (1) shall be deemed to have come into force on the 2nd day of May, 1988. Idem

(3) Subsection 7 (2) comes into force on the 18th day of May, 1989 and applies in respect of motor vehicles purchased on, before or after that date. Idem

(4) Subsection 1 (2), sections 2, 3 and 5 and subsections 7 (1), (4) and (6) come into force on the 1st day of June, 1989. Idem

(5) Section 4 and subsections 7 (3) and (5) come into force on the 1st day of July, 1989. Idem

9. The short title of this Act is the *Retail Sales Tax Amendment Act, 1989*. Short title

Bill 22

(Chapter 38
Statutes of Ontario, 1989)

An Act to amend the Retail Sales Tax Act

The Hon. B. Grandmaître
Minister of Revenue



<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

Bill 22

1989

An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause (ba) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1989, chapter 15, section 1, is amended by inserting after “*Excise Tax Act (Canada)*” in the second line “or the *Excise Act (Canada)*”.

(2) Paragraph 4 of section 1 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 1, 1983, chapter 27, section 1 and 1989, chapter 15, section 1, is further amended by striking out “and” at the end of clause (e), by adding “and” at the end of clause (f) and by adding thereto the following clause:

(g) any tax payable by the purchaser under section 2b or 2c,

.

2. Subsection 2 (14) of the said Act is amended by adding at the end thereof “together with any tax payable under section 2b or 2c”.

3. The said Act is amended by adding thereto the following section:

2b.—(1) Every purchaser of a new pneumatic tire, other than a purchaser referred to in subsection (2), shall pay to Her Majesty in right of Ontario a tax of \$5 in respect of the consumption or use of the tire.

Tax on new
pneumatic
tires

(2) The purchaser of a new pneumatic tire is exempt from the tax imposed by this section if,

Exemptions

- (a) the tire is acquired by the purchaser as part of tangible personal property acquired by the purchaser and the purchaser is exempt under subsection 5 (1) from the tax imposed by section 2 in respect of the purchase of the tangible personal property;
- (b) the tire is acquired by the purchaser in replacement of a tire described in clause (a); or
- (c) the tire is attached to or is designed for use on any class or classes of tangible personal property prescribed by the Minister.

Definition of
"sale" and
"first sale"

(3) For the purposes of this section,

- (a) any sale of tangible personal property to which a tire is attached, or in connection with which the tire is supplied, is a sale of the tire;
- (b) the first sale of a pneumatic tire means the first sale of the tire that is,
 - (i) a retail sale,
 - (ii) a lease or rental for a term of at least seven days of tangible personal property to which the tire is attached, or in connection with which the tire is supplied, or
 - (iii) a transfer by a vendor, under the terms of a lease or rental agreement referred to in subclause (ii), of the tire in replacement of another tire;
- (c) a purchaser shall be considered to acquire a new pneumatic tire on the date on which,
 - (i) the purchaser acquires the pneumatic tire at the first sale of the tire, if the first sale is in Ontario,
 - (ii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of tangible personal property, other than a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the first sale of the tire was outside of Ontario within the previous six months, or

- (iii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the motor vehicle is a current or prior year model, as defined by the Minister, and the first sale of the tire was outside of Ontario.

R.S.O. 1980,
c. 198

4. The said Act is further amended by adding thereto the following section:

2c.—(1) Every purchaser of a new fuel inefficient car, other than a car which is a settler's effect referred to in paragraph 71 of subsection 5 (1) or tangible personal property referred to in paragraph 73 of subsection 5 (1), shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use of the car in the amount determined under subsection (3).

Tax on new
fuel
inefficient
passenger
cars

(2) For the purposes of this section,

Definition of
"fuel
inefficient
car" and
"new fuel
inefficient
car"

- (a) a fuel inefficient car is a passenger car, as defined by the Minister, having a highway fuel consumption rating, as determined under subsection (4), of 9.5 or more litres of gasoline or diesel fuel per 100 kilometres; and
- (b) a purchaser shall be considered to be the purchaser of a new fuel inefficient car where,
 - (i) the first sale of the fuel inefficient car to a purchaser is in Ontario and is a retail sale of the car to the purchaser or a rental or lease to the purchaser of the fuel inefficient car for a term of at least one year,
 - (ii) the first sales of the fuel inefficient car to purchasers are in Ontario on or after the 1st day of July, 1989, and are leases or rentals of the car for terms less than one year, and the purchaser acquires the car at such a sale within 180 days of the first such sale,
 - (iii) the first sale of the fuel inefficient car to a purchaser is outside of Ontario on or after the 1st day of July, 1989, and, on the date the purchaser thereof is required under subsection 2 (14) to pay the tax imposed by section 2, the

car is a current or prior year model as defined by the Minister.

Amount of
tax

(3) The amount of tax payable under subsection (1) by a purchaser of a new fuel inefficient car shall be the amount of tax appearing in the following table opposite the range of highway fuel consumption ratings which includes the highway fuel consumption rating of the car, except that the total amount of tax payable under this section by all purchasers referred to in subclause (2) (b)(ii) in respect of the same car shall not exceed the amount of tax otherwise determined under this subsection, and each such purchaser shall pay such portion of the total amount of tax which, in the Minister's opinion, reasonably represents the use of the car by that purchaser during the 180 days referred to in subclause (2) (b)(ii):

Highway Fuel Consumption Ratings

<i>Litres per 100 kilometres</i>	<i>Tax</i>
9.5 - 12.0	\$ 600
12.1 - 15.0	\$1,200
15.1 - 18.0	\$2,200
over 18.0	\$3,500

Highway fuel
consumption
rating

(4) For the purposes of this section, the highway fuel consumption rating of a passenger car shall be deemed to be the lesser of,

- (a) the highway fuel consumption rating most recently published by the Department of Transport (Canada) of cars matching the description of the passenger car, if such a publication is available publicly at the date of sale of the passenger car; or
- (b) 18.1 litres per 100 kilometres.

Rebates and
assessments
of additional
tax

(5) Where the highway fuel consumption rating of a car is subsequently determined, in a manner prescribed by the Minister, to be less than or greater than the rating used in the determination of an amount of tax payable by the purchaser under this section, the Minister may,

- (a) where the subsequent rating is less, rebate with interest to the purchaser, upon receipt of an application therefor in the manner and within the time prescribed by the Minister, the amount of tax paid by the purchaser under this section in excess of the amount of tax that would have been determined using the subsequent rating; or

- (b) where the subsequent rating is greater, assess or reassess the tax payable by the purchaser under this section together with interest from the date the car was acquired.

5.—(1) Subsection 5 (1) of the said Act is amended by striking out “this Act” in the third line and inserting in lieu thereof “section 2”.

(2) Paragraph 17 of subsection 5 (1) of the said Act is repealed.

(3) Paragraph 26 of subsection 5 (1) of the said Act is amended by inserting after “thereunder” in the sixth line “or the *National Transportation Act, 1987 (Canada)* or regulations made thereunder,”.

6. Section 40 of the said Act is repealed and the following substituted therefor:

40. Any officer, director or agent of a corporation, or any other person, who directed, authorized, assented to, acquiesced in or participated in the commission of any act by the corporation which is an offence under this Act, or the omission of any act the omission of which is an offence under this Act, is guilty of an offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted of any offence under this Act.

Officers, etc.,
of
corporation

7.—(1) Clause 45 (3) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 66, section 12, is amended by inserting after “tax” in the first line “imposed by section 2”.

(2) Subclauses (ii) and (iii) of clause 45 (3) (i) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 12, are repealed and the following substituted therefor:

- (ii) a vehicle that is powered by a gasoline or diesel engine and for which a permit is required under the *Highway Traffic Act*, and any tangible personal property sold as a conversion kit, including the labour provided to install the conversion kit, where the purchaser enters into a written contract for the conversion of the vehicle within ninety days of the date of sale, and the vehicle is in fact converted to permit it to operate in a manner described in

R.S.O. 1980.
c. 198

sub-subclause (i)(A) or (B) within 180 days of the date of sale of the vehicle, or

- (iii) tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that operates in the manner described in sub-subclause (i)(A) or (B), including the labour to install the kit, where the vehicle is not so converted within 180 days of the date of sale of the vehicle,

.

(3) Subsection 45 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16 and 1986, chapter 66, section 12, is further amended by adding thereto the following clause:

- (k) providing for the rebate of any tax paid by a purchaser under section 2c, where the purchaser is entitled to a rebate referred to in subclause (i)(ii), in connection with the conversion of the vehicle to permit it to operate in the manner described in sub-subclause (i)(A).

(4) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (l) providing for the computation, payment and collection of tax imposed by section 2b, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

(5) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (m) providing for the computation, payment and collection of tax imposed by section 2c, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

(6) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (n) providing for a rebate or a partial rebate of tax paid on motor vehicles purchased to transport physically disabled persons.

8.—(1) Except as provided in subsections (2) to (5), this Act comes into force on the day it receives Royal Assent. Commence-
ment

(2) Subsection 1 (1) shall be deemed to have come into force on the 2nd day of May, 1988. Idem

(3) Subsection 7 (2) shall be deemed to have come into force on the 18th day of May, 1989 and applies in respect of motor vehicles purchased on, before or after that date. Idem

(4) Subsection 1 (2), sections 2, 3 and 5 and subsections 7 (1), (4) and (6) shall be deemed to have come into force on the 1st day of June, 1989. Idem

(5) Section 4 and subsections 7 (3) and (5) shall be deemed to have come into force on the 1st day of July, 1989. Idem

9. The short title of this Act is the *Retail Sales Tax Amendment Act, 1989*. Short title

Bill 23

An Act to amend the Land Transfer Tax Act

The Hon. B. Grandmaître
Minister of Revenue



1st Reading May 17th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Treasurer's Budget of May 17, 1989 and makes administrative amendments and clarifications.

SECTION 1. The amendments are consequential upon the enactment of section 7a of the Act by section 4 of the Bill.

SECTION 2. The amendments implement the Treasurer's Budget proposal of extending the additional rate of one-half of 1 per cent to all conveyances of land where the value of the consideration for the conveyance exceeds \$250,000.

The amendments implement the Treasurer's Budget proposal to increase the rates of land transfer tax as follows:

- (a) where the value of the consideration for a conveyance of any land, not just single family residential land, exceeds \$250,000, the tax on the amount in excess of \$250,000 will be 1.5 per cent; and
- (b) where the value of the consideration for a conveyance of land that contains at least one and not more than two single family residences exceeds \$400,000, the tax on the amount in excess of \$400,000 will be 2 per cent.

SECTION 3. The re-enactment of subsection 4 (1) of the Act is consequential upon the increase in the tax rates.

SECTION 4. The enactment of section 7a of the Act will implement the Treasurer's Budget proposal of providing for a full or partial refund of land transfer tax paid on the acquisition of a first home by a qualifying planholder of an Ontario home ownership savings plan. Where the purchase price of the home does not exceed \$150,000, the full amount of the land transfer tax applicable to the home will be refunded. Where the purchase price is between \$150,000 and \$200,000, a partial refund at a declining rate will be available.

SECTION 5. The amendment provides that the Minister may assess tax later than the general four-year limitation period where the taxpayer has failed to deliver a return required by the Act and accordingly has failed to report to the Minister that a taxable disposition has occurred.

SECTION 6.—Subsection 1. The amendments permit the Minister to approve different versions of any prescribed form, both to ensure uniformity and to ensure that any form required by the Act to be attached to a registered conveyance will be in a form acceptable for registration by the Land Titles Offices and Registry Offices.

Subsection 2. The amendments clarify the regulation-making authority of the Lieutenant Governor in Council and further provide that the method of calculating the cost of construction or acquisition of an eligible home may be prescribed for the purposes of determining the amount of any tax refund under section 7a of the Act, as enacted by section 4 of the Bill.

Bill 23

1989

An Act to amend the Land Transfer Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 20, section 1 and 1985, chapter 21, section 1, is further amended by adding thereto the following clauses:

(gb) “Ontario home ownership savings plan” means an Ontario home ownership savings plan under the *Ontario Home Ownership Savings Plan Act*, 1988; 1988, c. 35

(gc) “Ontario home ownership savings plan tax credit”, of an individual for a taxation year, means the deduction allowed to the individual under subsection 7 (2a) of the *Income Tax Act* for the taxation year of the individual as determined under that Act; R.S.O. 1980, c. 213

.

(ia) “registration”, of a conveyance, means registration under the *Land Titles Act* or the *Registry Act*, and “registered” has a corresponding meaning. R.S.O. 1980, cc. 230, 445

2.—(1) Clause 2 (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:

(c) at the rate of,

(i) one-half of 1 per cent of the value of the consideration for the conveyance up to and including \$55,000,

(ii) 1 per cent of the value of the consideration which exceeds \$55,000 up to and including \$250,000, and

(iii) 1.5 per cent of the value of the consideration which exceeds \$250,000; and

.

(2) Clause 2 (1) (d) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:

(d) where the value of the consideration for the conveyance exceeds \$400,000 and the conveyance is a conveyance of land that contains at least one and not more than two single family residences, an additional tax of one-half of 1 per cent of the amount by which the value of the consideration exceeds \$400,000.

(3) Subsection 2 (1a) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:

Apportion-
ment of
consideration

(1a) Where, in respect of a conveyance of land,

(a) subsection (2) does not apply;

(b) the value of the consideration for the conveyance exceeds \$400,000; and

(c) a part of the land being conveyed is used for a purpose other than residential purposes,

the Minister may, to the extent that he considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with a single family residence, and the person tendering the conveyance for registration is, despite subsection (1), liable to the additional tax of one-half of 1 per cent only upon the amount by which the value of the consideration determined by the Minister to be attributable to land used in connection with a single family residence exceeds \$400,000.

(4) Subsection 2 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:

(6) Where only a part of the land being conveyed is unrestricted land and the conveyance is to or in trust for any non-resident person, the Minister may, to the extent the Minister considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the unrestricted land being conveyed, and the person tendering the conveyance for registration is, despite subsection (1) or (2), liable to a tax,

Apportionment of consideration

- (a) with respect to the amount of the value of the consideration determined by the Minister to be reasonably attributable to the unrestricted land being conveyed, computed at the rate of,
 - (i) 1 per cent of the amount determined by the Minister which does not exceed \$250,000,
 - (ii) 1.5 per cent of the amount determined by the Minister which exceeds \$250,000, and
 - (iii) any tax required to be calculated under clause (1) (d) or subsection (1a), whichever is the lesser, on the amount determined by the Minister; and
- (b) computed at the rate of 20 per cent of the amount of the value of the consideration for the conveyance that is determined by the Minister not to be reasonably attributable to the unrestricted land being conveyed.

3. Subsection 4 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 21, section 3, is repealed and the following substituted therefor:

(1) There shall be filed with the collector and attached by the collector to the conveyance to which it relates an affidavit in the prescribed form setting out,

Contents of affidavit as to consideration

- (a) the true value of the consideration for the conveyance;
- (b) the true amount in cash and the value of any property or security included in the value of the consideration;
- (c) the amount or value of any lien or encumbrance subject to which the conveyance was made;

- (d) whether the transferee to whom the land is being conveyed is a non-resident person or the trustee of a non-resident person;
- (e) where the value of the conveyance exceeds \$400,000, whether the land being conveyed contains at least one and not more than two single family residences; and
- (f) any other information prescribed by the Minister that in the Minister's opinion is required for the purpose of administering and enforcing this Act.

4. The said Act is amended by adding thereto the following section:

Refund on
purchase of
eligible home
under
1988, c. 35

7a.—(1) Where, in respect of a conveyance of land,

- (a) subsection 2 (2) does not apply;
- (b) the tax payable under subsection 2 (1) was paid with respect to the conveyance and the conveyance was registered after the 17th day of May, 1989;
- (c) a transferee named in the conveyance was a plan-holder of an Ontario home ownership savings plan and the assets of that plan have been released under section 5 of the *Ontario Home Ownership Savings Plan Act, 1988* for the purpose of purchasing the qualifying eligible home of the transferee under that Act;
- (d) the qualifying eligible home of the transferee referred to in clause (c) now forms part of the land subject to the conveyance; and
- (e) the transferee, or his or her spouse, within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, if the transferee is married,
 - (i) is entitled to receive an Ontario home ownership savings plan tax credit for the taxation year in which the assets of the transferee's Ontario home ownership savings plan were released for the purpose described in clause (c), or would have been entitled to such a tax credit for that taxation year if the transferee had made a contribution to the plan in that taxation year, or would have been so entitled

but for subsection 3 (2) of the *Ontario Home Ownership Savings Plan Act, 1988*, or 1988, c. 35

- (ii) was entitled to receive and did receive an Ontario home ownership savings plan tax credit for either of the two taxation years ending before the date the assets of the plan were released for the purpose described in clause (c),

the Minister may, upon application therefor within the prescribed time and in the prescribed manner, refund to the transferee the amount of tax determined under subsection (2) with respect to the conveyance, without interest thereon, where the Minister is satisfied that the qualifying eligible home had a total purchase price of not more than \$200,000.

(2) The amount of tax which may be refunded to a transferee under subsection (1) is, Amount of refund

- (a) where the total purchase price of the qualifying eligible home does not exceed \$150,000, the amount of the tax paid under subsection 2 (1), or, if the transferee is not the only transferee named in the conveyance, the portion of such tax applicable to the transferee's interest acquired under the conveyance including, where the transferee is married to a spouse within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, the spouse's interest acquired under the conveyance; and 1988, c. 35
- (b) where the total purchase price of the qualifying eligible home exceeds \$150,000 but does not exceed \$200,000, the percentage of the tax paid under subsection 2 (1) appearing on the following table beside the range of total purchase prices which includes the total purchase price of the transferee's qualifying eligible home, except that if the transferee is not the only transferee named in the conveyance, the amount of the refund shall not exceed the percentage determined under this clause of the portion of the tax applicable to the transferee's interest acquired under the conveyance including, where the transferee is married to a spouse within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, the spouse's interest acquired under the conveyance:

<i>Total Purchase Price</i>	<i>Percentage of Tax Paid</i>
\$150,001 - \$155,500	90 per cent
\$155,501 - \$161,000	80 per cent
\$161,001 - \$166,500	70 per cent
\$166,501 - \$172,000	60 per cent
\$172,001 - \$177,500	50 per cent
\$177,501 - \$183,000	40 per cent
\$183,001 - \$188,500	30 per cent
\$188,501 - \$194,000	20 per cent
\$194,001 - \$200,000	10 per cent

Total
purchase
price defined

(3) Subject to subsection (4), "total purchase price of a qualifying eligible home" for the purposes of this section means,

1988, c. 35

(a) where the conveyance is of land upon which there is an eligible home under the *Ontario Home Ownership Savings Plan Act, 1988* at the time of registration of the conveyance, the value of the consideration for the conveyance; or

(b) where the conveyance is of land upon which there was not yet an eligible home under the *Ontario Home Ownership Savings Plan Act, 1988* at the time of registration of the conveyance, the aggregate of the value of the consideration for the conveyance and the total cost for the construction or acquisition of the eligible home which subsequently forms part of the land.

Where part
of land
not for
residential
use

(4) Where a part of the land conveyed is not used for residential purposes at the time of the application for a refund under this section, the Minister may, to the extent that the Minister considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with the transferee's qualifying eligible home and, for the purposes of determining the total purchase price of the qualifying eligible home and the amount of the refund payable under this section, the value of the consideration for the conveyance shall be deemed to be the amount so determined by the Minister and the amount of tax paid under subsection 2 (1) shall be deemed to be the amount of such tax which would have been payable thereon.

Offence

(5) Any person who makes or assists in making a statement in any application for a refund under this section, or in any document provided to the Minister in connection therewith, that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omis-

sion of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

(6) Where a refund is made under this section to a transferee and it is subsequently determined that the transferee was not entitled to the refund, or was entitled only to a refund in a lesser amount, the amount of the refund to which the transferee was not entitled shall, for the purposes of this Act, be deemed to be tax imposed by section 2 which was required to have been paid by the transferee on the date the refund was made to the transferee by the Minister.

Recovery of
refund
wrongly
obtained

5. Subsection 10 (4) of the said Act is repealed and the following substituted therefor:

(4) The Minister may assess or reassess any person for any tax payable by the person under this Act within four years from the day the tax became payable, except that, where the Minister establishes that a person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in supplying any information under this Act, in making any affidavit required by this Act, or in omitting to disclose any information, or the person has failed to deliver any return required by this Act, the Minister may assess or reassess at any time the Minister considers reasonable the tax payable by such person.

Limitation on
assessment

6.—(1) Subsection 18 (1) of the said Act is repealed and the following substituted therefor:

(1) The Minister may make regulations,

Regulations

- (a) prescribing forms for the purposes of this Act and providing for their use;
- (b) providing for the approval by the Minister or a person designated by the Minister of prescribed forms containing variations;
- (c) providing that a variation of a prescribed form is void unless approved by the Minister or a person designated by the Minister.

(2) Subsection 18 (2) of the said Act is amended by adding thereto the following clauses:

- (ga) prescribing any matter required by this Act to be prescribed by the regulations;

(gb) defining any word or expression used in this Act that has not already been expressly defined in this Act;

(gc) providing for the method of calculating the total cost for the construction or acquisition of an eligible home for the purposes of section 7a.

Commence-
ment

7.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Sections 2 and 3 come into force on the 1st day of June, 1989.

Idem

(3) Section 4 comes into force on the 18th day of May, 1989.

Short title

8. The short title of this Act is the *Land Transfer Tax Amendment Act, 1989*.

Bill 23

*(Chapter 39
Statutes of Ontario, 1989)*

An Act to amend the Land Transfer Tax Act

The Hon. B. Grandmaître
Minister of Revenue

<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

Bill 23

1989

An Act to amend the Land Transfer Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 20, section 1 and 1985, chapter 21, section 1, is further amended by adding thereto the following clauses:

(gb) “Ontario home ownership savings plan” means an Ontario home ownership savings plan under the *Ontario Home Ownership Savings Plan Act, 1988*; 1988, c. 35

(gc) “Ontario home ownership savings plan tax credit”, of an individual for a taxation year, means the deduction allowed to the individual under subsection 7 (2a) of the *Income Tax Act* for the taxation year of the individual as determined under that Act; R.S.O. 1980, c. 213

.

(ia) “registration”, of a conveyance, means registration under the *Land Titles Act* or the *Registry Act*, and “registered” has a corresponding meaning. R.S.O. 1980, cc. 230, 445

2.—(1) Clause 2 (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:

(c) at the rate of,

(i) one-half of 1 per cent of the value of the consideration for the conveyance up to and including \$55,000,

- (ii) 1 per cent of the value of the consideration which exceeds \$55,000 up to and including \$250,000, and
 - (iii) 1.5 per cent of the value of the consideration which exceeds \$250,000; and
-

(2) Clause 2 (1) (d) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:

- (d) where the value of the consideration for the conveyance exceeds \$400,000 and the conveyance is a conveyance of land that contains at least one and not more than two single family residences, an additional tax of one-half of 1 per cent of the amount by which the value of the consideration exceeds \$400,000.

(3) Subsection 2 (1a) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:

Apportion-
ment of
consideration

- (1a) Where, in respect of a conveyance of land,
 - (a) subsection (2) does not apply;
 - (b) the value of the consideration for the conveyance exceeds \$400,000; and
 - (c) a part of the land being conveyed is used for a purpose other than residential purposes,

the Minister may, to the extent that he considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with a single family residence, and the person tendering the conveyance for registration is, despite subsection (1), liable to the additional tax of one-half of 1 per cent only upon the amount by which the value of the consideration determined by the Minister to be attributable to land used in connection with a single family residence exceeds \$400,000.

(4) Subsection 2 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:

(6) Where only a part of the land being conveyed is unrestricted land and the conveyance is to or in trust for any non-resident person, the Minister may, to the extent the Minister considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the unrestricted land being conveyed, and the person tendering the conveyance for registration is, despite subsection (1) or (2), liable to a tax,

Apportionment of consideration

- (a) with respect to the amount of the value of the consideration determined by the Minister to be reasonably attributable to the unrestricted land being conveyed, computed at the rate of,
 - (i) 1 per cent of the amount determined by the Minister which does not exceed \$250,000,
 - (ii) 1.5 per cent of the amount determined by the Minister which exceeds \$250,000, and
 - (iii) any tax required to be calculated under clause (1) (d) or subsection (1a), whichever is the lesser, on the amount determined by the Minister; and
- (b) computed at the rate of 20 per cent of the amount of the value of the consideration for the conveyance that is determined by the Minister not to be reasonably attributable to the unrestricted land being conveyed.

3. Subsection 4 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 21, section 3, is repealed and the following substituted therefor:

(1) There shall be filed with the collector and attached by the collector to the conveyance to which it relates an affidavit in the prescribed form setting out,

Contents of affidavit as to consideration

- (a) the true value of the consideration for the conveyance;
- (b) the true amount in cash and the value of any property or security included in the value of the consideration;
- (c) the amount or value of any lien or encumbrance subject to which the conveyance was made;

- (d) whether the transferee to whom the land is being conveyed is a non-resident person or the trustee of a non-resident person;
- (e) where the value of the conveyance exceeds \$400,000, whether the land being conveyed contains at least one and not more than two single family residences; and
- (f) any other information prescribed by the Minister that in the Minister's opinion is required for the purpose of administering and enforcing this Act.

4. The said Act is amended by adding thereto the following section:

Refund on
purchase of
eligible home
under
1988, c. 35

7a.—(1) Where, in respect of a conveyance of land,

- (a) subsection 2 (2) does not apply;
- (b) the tax payable under subsection 2 (1) was paid with respect to the conveyance and the conveyance was registered after the 17th day of May, 1989;
- (c) a transferee named in the conveyance was a plan-holder of an Ontario home ownership savings plan and the assets of that plan have been released under section 5 of the *Ontario Home Ownership Savings Plan Act, 1988* for the purpose of purchasing the qualifying eligible home of the transferee under that Act;
- (d) the qualifying eligible home of the transferee referred to in clause (c) now forms part of the land subject to the conveyance; and
- (e) the transferee, or his or her spouse, within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, if the transferee is married,
 - (i) is entitled to receive an Ontario home ownership savings plan tax credit for the taxation year in which the assets of the transferee's Ontario home ownership savings plan were released for the purpose described in clause (c), or would have been entitled to such a tax credit for that taxation year if the transferee had made a contribution to the plan in that taxation year, or would have been so entitled

but for subsection 3 (2) of the *Ontario Home Ownership Savings Plan Act, 1988*, or 1988, c. 35

- (ii) was entitled to receive and did receive an Ontario home ownership savings plan tax credit for either of the two taxation years ending before the date the assets of the plan were released for the purpose described in clause (c),

the Minister may, upon application therefor within the prescribed time and in the prescribed manner, refund to the transferee the amount of tax determined under subsection (2) with respect to the conveyance, without interest thereon, where the Minister is satisfied that the qualifying eligible home had a total purchase price of not more than \$200,000.

(2) The amount of tax which may be refunded to a transferee under subsection (1) is, Amount of refund

- (a) where the total purchase price of the qualifying eligible home does not exceed \$150,000, the amount of the tax paid under subsection 2 (1), or, if the transferee is not the only transferee named in the conveyance, the portion of such tax applicable to the transferee's interest acquired under the conveyance including, where the transferee is married to a spouse within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, the spouse's interest acquired under the conveyance; and 1988, c. 35
- (b) where the total purchase price of the qualifying eligible home exceeds \$150,000 but does not exceed \$200,000, the percentage of the tax paid under subsection 2 (1) appearing on the following table beside the range of total purchase prices which includes the total purchase price of the transferee's qualifying eligible home, except that if the transferee is not the only transferee named in the conveyance, the amount of the refund shall not exceed the percentage determined under this clause of the portion of the tax applicable to the transferee's interest acquired under the conveyance including, where the transferee is married to a spouse within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, the spouse's interest acquired under the conveyance:

<i>Total Purchase Price</i>	<i>Percentage of Tax Paid</i>
\$150,001 - \$155,500	90 per cent
\$155,501 - \$161,000	80 per cent
\$161,001 - \$166,500	70 per cent
\$166,501 - \$172,000	60 per cent
\$172,001 - \$177,500	50 per cent
\$177,501 - \$183,000	40 per cent
\$183,001 - \$188,500	30 per cent
\$188,501 - \$194,000	20 per cent
\$194,001 - \$200,000	10 per cent

Total
purchase
price defined

(3) Subject to subsection (4), "total purchase price of a qualifying eligible home" for the purposes of this section means,

1988, c. 35

- (a) where the conveyance is of land upon which there is an eligible home under the *Ontario Home Ownership Savings Plan Act, 1988* at the time of registration of the conveyance, the value of the consideration for the conveyance; or
- (b) where the conveyance is of land upon which there was not yet an eligible home under the *Ontario Home Ownership Savings Plan Act, 1988* at the time of registration of the conveyance, the aggregate of the value of the consideration for the conveyance and the total cost for the construction or acquisition of the eligible home which subsequently forms part of the land.

Where part
of land
not for
residential
use

(4) Where a part of the land conveyed is not used for residential purposes at the time of the application for a refund under this section, the Minister may, to the extent that the Minister considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with the transferee's qualifying eligible home and, for the purposes of determining the total purchase price of the qualifying eligible home and the amount of the refund payable under this section, the value of the consideration for the conveyance shall be deemed to be the amount so determined by the Minister and the amount of tax paid under subsection 2 (1) shall be deemed to be the amount of such tax which would have been payable thereon.

Offence

(5) Any person who makes or assists in making a statement in any application for a refund under this section, or in any document provided to the Minister in connection therewith, that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omis-

sion of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

(6) Where a refund is made under this section to a transferee and it is subsequently determined that the transferee was not entitled to the refund, or was entitled only to a refund in a lesser amount, the amount of the refund to which the transferee was not entitled shall, for the purposes of this Act, be deemed to be tax imposed by section 2 which was required to have been paid by the transferee on the date the refund was made to the transferee by the Minister.

Recovery of
refund
wrongly
obtained

5. Subsection 10 (4) of the said Act is repealed and the following substituted therefor:

(4) The Minister may assess or reassess any person for any tax payable by the person under this Act within four years from the day the tax became payable, except that, where the Minister establishes that a person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in supplying any information under this Act, in making any affidavit required by this Act, or in omitting to disclose any information, or the person has failed to deliver any return required by this Act, the Minister may assess or reassess at any time the Minister considers reasonable the tax payable by such person.

Limitation on
assessment

6.—(1) Subsection 18 (1) of the said Act is repealed and the following substituted therefor:

(1) The Minister may make regulations,

Regulations

- (a) prescribing forms for the purposes of this Act and providing for their use;
- (b) providing for the approval by the Minister or a person designated by the Minister of prescribed forms containing variations;
- (c) providing that a variation of a prescribed form is void unless approved by the Minister or a person designated by the Minister.

(2) Subsection 18 (2) of the said Act is amended by adding thereto the following clauses:

- (ga) prescribing any matter required by this Act to be prescribed by the regulations;

(gb) defining any word or expression used in this Act that has not already been expressly defined in this Act;

(gc) providing for the method of calculating the total cost for the construction or acquisition of an eligible home for the purposes of section 7a.

Commence-
ment

7.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Sections 2 and 3 shall be deemed to have come into force on the 1st day of June, 1989.

Idem

(3) Section 4 shall be deemed to have come into force on the 18th day of May, 1989.

Short title

8. The short title of this Act is the *Land Transfer Tax Amendment Act, 1989*.

Bill 24

An Act to amend the Gasoline Tax Act

The Hon. B. Grandmaître
Minister of Revenue

1st Reading May 17th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to implement the Treasurer's 1989 Budget proposals related to the taxation of unleaded and leaded gasoline, propane and aviation fuel. The changes are summarized below.

Subsection 2 (1) — Unleaded and Leaded Gasoline.

Effective May 18, 1989, the tax rate on unleaded gasoline will increase by 1 cent from 9.3 to 10.3 cents per litre. This rate will increase by an additional 1 cent to 11.3 cents per litre effective January 1, 1990.

The tax rate on leaded gasoline will increase, effective May 18, 1989, by 1 cent from 12.3 to 13.3 cents per litre. This rate will increase by an additional 1 cent to 14.3 cents per litre effective January 1, 1990.

Subsection 2 (2) — Aviation Fuel

Effective May 18, 1989, the tax rate on aviation fuel will increase by 0.22 cents from 1.88 to 2.1 cents per litre.

Subsection 2 (3) — Propane

Effective July 1, 1989, a new tax will be imposed on propane used in licensed motor vehicles. Initially, the tax rate on propane will be 2.3 cents per litre. This rate will increase to 4.3 cents per litre effective January 1, 1990.

Sections 1 and 3 — Miscellaneous amendments.

The amendments are complementary to the imposition of a tax on propane as set out in subsection 2 (3) of the Bill.

Bill 24

1989

An Act to amend the Gasoline Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (d) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of subclause (iii), by repealing subclause (iv) and by adding thereto the following clauses:

- (iv) ethanol, methanol or natural gas, or
- (v) propane, except when used or intended to be used in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*.

R.S.O. 1980,
c. 198

(2) Section 1 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 1 and 1988, chapter 66, section 1, is further amended by adding thereto the following clause:

- (ga) “propane” means any product commonly known as liquified petroleum gas that conforms to Grade 1 or Grade 2, as described in the Standard CAN/CGSB-3.14-M88 of the National Standards of Canada as published by the Canadian General Standards Board or that conforms to such other liquified petroleum gas standard as is published in replacement thereof by the Canadian General Standards Board and includes any substance added thereto.

2.—(1) Subsection 2 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2 and amended by 1988, chapter 66, section 2, is repealed and the following substituted therefor:

- (1) Every purchaser of gasoline shall pay to the Treasurer, a tax at the rate of,

Tax on
gasoline

- (a) 10.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser before the 1st day of January, 1990; and
- (b) 11.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser after the 31st day of December, 1989.

(2) Subsection 2 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2, is amended by striking out "1.88" in the second line and inserting in lieu thereof "2.1".

(3) Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 11, section 2, 1985, chapter 24, section 2 and 1988, chapter 66, section 2, is further amended by adding thereto the following subsection:

Tax on
propane

R.S.O. 1980,
c. 198

(2b) Every purchaser of propane shall pay to the Treasurer, on all propane purchased by, or delivered to, the purchaser for use in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*, a tax at the rate of,

- (a) 2.3 cents per litre on propane purchased or delivered before the 1st day of January, 1990;
- (b) 4.3 cents per litre on propane purchased or delivered after the 31st day of December, 1989.

3. Clauses 1 (e), (h), (j) and (l), subsections 2 (4), 3 (1), 4 (1), 4 (2), 6 (1), 6 (2), 6 (3) and 6 (4), clause 7 (1) (b), subsections 10 (2) and 20 (2), section 31 and clause 32 (2) (b) of the said Act are amended by striking out "gasoline or aviation fuel" wherever that expression occurs and inserting in lieu thereof in each instance "gasoline, aviation fuel or propane".

Commence-
ment

4.—(1) Subject to subsection (2), this Act shall be deemed to have come into force on the 18th day of May, 1989.

(2) Section 1, subsection 2 (3) and section 3 come into force on the 1st day of July, 1989 and apply in respect of propane purchased or delivered after the 30th day of June, 1989.

Short title

5. The short title of this Act is the *Gasoline Tax Amendment Act, 1989*.

Bill 24

An Act to amend the Gasoline Tax Act

The Hon. B. Grandmaître
Minister of Revenue



1st Reading May 17th, 1989
2nd Reading June 26th, 1989
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The purpose of the Bill is to implement the Treasurer's 1989 Budget proposals related to the taxation of unleaded and leaded gasoline, propane and aviation fuel. The changes are summarized below.

Subsection 2 (1) — Unleaded and Leaded Gasoline

Effective May 18, 1989, the tax rate on unleaded gasoline will increase by 1 cent from 9.3 to 10.3 cents per litre. This rate will increase by an additional 1 cent to 11.3 cents per litre effective January 1, 1990.

The tax rate on leaded gasoline will increase, effective May 18, 1989, by 1 cent from 12.3 to 13.3 cents per litre. This rate will increase by an additional 1 cent to 14.3 cents per litre effective January 1, 1990.

Subsection 2 (2) — Aviation Fuel

Effective May 18, 1989, the tax rate on aviation fuel will increase by 0.22 cents from 1.88 to 2.1 cents per litre.

Subsection 2 (3) — Propane

Effective July 1, 1989, a new tax will be imposed on propane used in licensed motor vehicles. Initially, the tax rate on propane will be 2.3 cents per litre. This rate will increase to 4.3 cents per litre effective January 1, 1990.

SECTION 3. This amendment sets out the collection and remittance obligations of importers and requires importers who are not collectors to account for the tax they are obliged to collect or to pay at the point of entry into Ontario to officials authorized by the Minister.

SECTION 4. This amendment permits officials authorized by the Minister at border points to request the specified information from those transporting bulk aviation fuel, bulk gasoline or bulk propane and to detain the motor vehicle until correct information is provided and until the required remittance and returns are made by the importer.

SECTIONS 1 and 5 — Miscellaneous amendments

The amendments are complementary to the imposition of a tax on propane as set out in subsection 2 (3) of the Bill.

Bill 24

1989

An Act to amend the Gasoline Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (d) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of subclause (iii), by repealing subclause (iv) and by adding thereto the following subclauses:

(iv) ethanol, methanol or natural gas, or

(v) propane, except when used or intended to be used in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*.

R.S.O. 1980,
c. 198

(2) Clause 1 (e) of the said Act is repealed and the following substituted therefor:

(e) “importer” means a person who brings or causes to be brought into Ontario gasoline in bulk, aviation fuel in bulk or propane in bulk.

(3) Section 1 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 1 and 1988, chapter 66, section 1, is further amended by adding thereto the following clauses:

(ba) “aviation fuel in bulk” means aviation fuel stored, transported or transferred by any means other than in a fuel tank of an aircraft or a motor vehicle in which aviation fuel for generating power in an aircraft or the motor vehicle is kept;

.

(da) “gasoline in bulk” means gasoline stored, transported or transferred by any means other than in a

fuel tank of a motor vehicle in which gasoline for generating power in the motor vehicle is kept; ▲

(ga) "propane" means any product commonly known as liquified petroleum gas that conforms to Grade 1 or Grade 2, as described in the Standard CAN/CGSB-3.14-M88 of the National Standards of Canada as published by the Canadian General Standards Board or that conforms to such other liquified petroleum gas standard as is published in replacement thereof by the Canadian General Standards Board and includes any substance added thereto;

(gb) "propane in bulk" means propane stored, transported or transferred by any means other than in a fuel tank of a motor vehicle in which propane for generating power in the motor vehicle is kept. ▲

2.—(1) Subsection 2 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2 and amended by 1988, chapter 66, section 2, is repealed and the following substituted therefor:

Tax on
gasoline

(1) Every purchaser of gasoline shall pay to the Treasurer, a tax at the rate of,

- (a) 10.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser before the 1st day of January, 1990; and
- (b) 11.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser after the 31st day of December, 1989.

(2) Subsection 2 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2, is amended by striking out "1.88" in the second line and inserting in lieu thereof "2.1".

(3) Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 11, section 2, 1985, chapter 24, section 2 and 1988, chapter 66, section 2, is further amended by adding thereto the following subsection:

Tax on
propane

(2b) Every purchaser of propane shall pay to the Treasurer, on all propane purchased by, or delivered to, the purchaser for use in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*, a tax at the rate of,

- (a) 2.3 cents per litre on propane purchased or delivered before the 1st day of January, 1990;
- (b) 4.3 cents per litre on propane purchased or delivered after the 31st day of December, 1989.



3. Section 4 of the said Act is repealed and the following substituted therefor:

4.—(1) Every importer shall, at the times and in the manner prescribed, collect from every wholesaler, retailer or purchaser to whom the importer sells aviation fuel, gasoline or propane, the tax collectable and payable under this Act and, for that purpose, every importer is an agent of the Minister for the collection of the tax imposed by this Act. Collection of tax

(2) Every importer who is a collector shall remit to the Treasurer, at the time and in the manner prescribed, the tax collectable and payable with respect to the aviation fuel, gasoline and propane imported by that person. Transmission of tax

(3) At the time of entry into Ontario from outside Canada of aviation fuel, gasoline or propane, every importer who is not a collector shall remit to the Treasurer, Security

- (a) an amount as security equal to the tax that the importer would be obliged to collect under subsection (1) on the resale in Ontario of the aviation fuel, gasoline or propane; and

- (b) the tax payable by the importer under subsection 2 (1).

(4) The remittance required by subsection (3) shall be made to a person authorized by the Minister for forwarding to the Treasurer by certified cheque or money order, payable to the Treasurer. Payment

(5) Every importer shall, at the times and in the manner prescribed, deliver to the Minister or to a person authorized by the Minister a return with respect to the aviation fuel, gasoline and propane imported by the importer. Returns

4. The said Act is amended by adding thereto the following section:

16a.—(1) Every person carrying aviation fuel in bulk, gasoline in bulk or propane in bulk and the operator of every motor vehicle carrying such products, shall, when requested by the Minister or any person authorized by the Minister, give Fuel in bulk

written evidence to the requester of any or all of the following information,

- (a) the name and address of any person from whom the aviation fuel, gasoline or propane was obtained and the name and address of any person to whom the aviation fuel, gasoline or propane so obtained was delivered or is to be delivered;
- (b) the quantity of aviation fuel, gasoline or propane delivered or to be delivered to any person;
- (c) the use or intended use, if known, to be made of any aviation fuel, gasoline or propane delivered or to be delivered from such motor vehicle.

Detention


(2) The Minister or a person authorized by the Minister may detain a motor vehicle carrying aviation fuel in bulk, gasoline in bulk or propane in bulk where,

- (a) written evidence requested under subsection (1) is not given;
- (b) the information in the written evidence that is given is false; or
- (c) the importer fails to comply with section 4 or fails to deliver any return in accordance with section 4.

Time

(3) The Minister or a person authorized by the Minister may detain a motor vehicle under subsection (2) until the written evidence is given, the true information is given, the remittance required under section 4 is delivered or the return in accordance with section 4 is delivered, as the case requires.

Liability

(4) During any detention under subsection (2), the Crown, or any person acting in the administration and enforcement of this Act, is not liable for any damages to the motor vehicle, its contents, cargo or freight, or to its owner or driver or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending compliance with section 4 and subsection (1). 

5. Clauses 1 (e), (h), (j) and (l), subsections 2 (4), 3 (1), 4 (1), 4 (2), 6 (1), 6 (2), 6 (3) and 6 (4), clause 7 (1) (b), subsections 10 (2) and 20 (2), section 31 and clause 32 (2) (b) of the said Act are amended by striking out “gasoline or aviation fuel” wherever that expression occurs and inserting in lieu thereof in each instance “gasoline, aviation fuel or propane”.

6.—(1) Subject to subsections (2) and (3), this Act shall be deemed to have come into force on the 18th day of May, 1989.

Commence-
ment

(2) Subsection 1 (1), subsection 2 (3) and section 5 shall be deemed to have come into force on the 1st day of July, 1989 and apply in respect of propane purchased or delivered after the 30th day of June, 1989.

Idem

(3) Subsections 1 (2) and (3) and sections 3 and 4 come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

7. The short title of this Act is the *Gasoline Tax Amendment Act, 1989*.

Short title

Bill 24

(Chapter 45
Statutes of Ontario, 1989)



An Act to amend the Gasoline Tax Act

The Hon. B. Grandmaître
Minister of Revenue

<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	July 26th, 1989
<i>Royal Assent</i>	July 26th, 1989

Bill 24

1989

An Act to amend the Gasoline Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (d) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of subclause (iii), by repealing subclause (iv) and by adding thereto the following subclauses:

- (iv) ethanol, methanol or natural gas, or
- (v) propane, except when used or intended to be used in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*.

R.S.O. 1980,
c. 198

(2) Clause 1 (e) of the said Act is repealed and the following substituted therefor:

- (e) “importer” means a person who brings or causes to be brought into Ontario gasoline in bulk, aviation fuel in bulk or propane in bulk.

(3) Section 1 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 1 and 1988, chapter 66, section 1, is further amended by adding thereto the following clauses:

- (ba) “aviation fuel in bulk” means aviation fuel stored, transported or transferred by any means other than in a fuel tank of an aircraft or a motor vehicle in which aviation fuel for generating power in an aircraft or the motor vehicle is kept;

- (da) “gasoline in bulk” means gasoline stored, transported or transferred by any means other than in a

fuel tank of a motor vehicle in which gasoline for generating power in the motor vehicle is kept;

(ga) "propane" means any product commonly known as liquified petroleum gas that conforms to Grade 1 or Grade 2, as described in the Standard CAN/CGSB-3.14-M88 of the National Standards of Canada as published by the Canadian General Standards Board or that conforms to such other liquified petroleum gas standard as is published in replacement thereof by the Canadian General Standards Board and includes any substance added thereto;

(gb) "propane in bulk" means propane stored, transported or transferred by any means other than in a fuel tank of a motor vehicle in which propane for generating power in the motor vehicle is kept.

2.—(1) Subsection 2 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2 and amended by 1988, chapter 66, section 2, is repealed and the following substituted therefor:

Tax on
gasoline

(1) Every purchaser of gasoline shall pay to the Treasurer, a tax at the rate of,

- (a) 10.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser before the 1st day of January, 1990; and
- (b) 11.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser after the 31st day of December, 1989.

(2) Subsection 2 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2, is amended by striking out "1.88" in the second line and inserting in lieu thereof "2.1".

(3) Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 11, section 2, 1985, chapter 24, section 2 and 1988, chapter 66, section 2, is further amended by adding thereto the following subsection:

Tax on
propane

(2b) Every purchaser of propane shall pay to the Treasurer, on all propane purchased by, or delivered to, the purchaser for use in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*, a tax at the rate of,

- (a) 2.3 cents per litre on propane purchased or delivered before the 1st day of January, 1990;
- (b) 4.3 cents per litre on propane purchased or delivered after the 31st day of December, 1989.

3. Section 4 of the said Act is repealed and the following substituted therefor:

4.—(1) Every importer shall, at the times and in the manner prescribed, collect from every wholesaler, retailer or purchaser to whom the importer sells aviation fuel, gasoline or propane, the tax collectable and payable under this Act and, for that purpose, every importer is an agent of the Minister for the collection of the tax imposed by this Act. Collection of tax

(2) Every importer who is a collector shall remit to the Treasurer, at the time and in the manner prescribed, the tax collectable and payable with respect to the aviation fuel, gasoline and propane imported by that person. Transmission of tax

(3) At the time of entry into Ontario from outside Canada of aviation fuel, gasoline or propane, every importer who is not a collector shall remit to the Treasurer, Security

- (a) an amount as security equal to the tax that the importer would be obliged to collect under subsection (1) on the resale in Ontario of the aviation fuel, gasoline or propane; and

- (b) the tax payable by the importer under subsection 2 (1).

(4) The remittance required by subsection (3) shall be made to a person authorized by the Minister for forwarding to the Treasurer by certified cheque or money order, payable to the Treasurer. Payment

(5) Every importer shall, at the times and in the manner prescribed, deliver to the Minister or to a person authorized by the Minister a return with respect to the aviation fuel, gasoline and propane imported by the importer. Returns

4. The said Act is amended by adding thereto the following section:

16a.—(1) Every person carrying aviation fuel in bulk, gasoline in bulk or propane in bulk and the operator of every motor vehicle carrying such products, shall, when requested by the Minister or any person authorized by the Minister, give Fuel in bulk

written evidence to the requester of any or all of the following information,

- (a) the name and address of any person from whom the aviation fuel, gasoline or propane was obtained and the name and address of any person to whom the aviation fuel, gasoline or propane so obtained was delivered or is to be delivered;
- (b) the quantity of aviation fuel, gasoline or propane delivered or to be delivered to any person;
- (c) the use or intended use, if known, to be made of any aviation fuel, gasoline or propane delivered or to be delivered from such motor vehicle.

Detention

(2) The Minister or a person authorized by the Minister may detain a motor vehicle carrying aviation fuel in bulk, gasoline in bulk or propane in bulk where,

- (a) written evidence requested under subsection (1) is not given;
- (b) the information in the written evidence that is given is false; or
- (c) the importer fails to comply with section 4 or fails to deliver any return in accordance with section 4.

Time

(3) The Minister or a person authorized by the Minister may detain a motor vehicle under subsection (2) until the written evidence is given, the true information is given, the remittance required under section 4 is delivered or the return in accordance with section 4 is delivered, as the case requires.

Liability

(4) During any detention under subsection (2), the Crown, or any person acting in the administration and enforcement of this Act, is not liable for any damages to the motor vehicle, its contents, cargo or freight, or to its owner or driver or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending compliance with section 4 and subsection (1).

5. Clauses 1 (e), (h), (j) and (l), subsections 2 (4), 3 (1), 4 (1), 4 (2), 6 (1), 6 (2), 6 (3) and 6 (4), clause 7 (1) (b), subsections 10 (2) and 20 (2), section 31 and clause 32 (2) (b) of the said Act are amended by striking out “gasoline or aviation fuel” wherever that expression occurs and inserting in lieu thereof in each instance “gasoline, aviation fuel or propane”.

6.—(1) Subject to subsections (2) and (3), this Act shall be deemed to have come into force on the 18th day of May, 1989. Commence-
ment

(2) Subsection 1 (1), subsection 2 (3) and section 5 shall be deemed to have come into force on the 1st day of July, 1989 and apply in respect of propane purchased or delivered after the 30th day of June, 1989. Idem

(3) Subsections 1 (2) and (3) and sections 3 and 4 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

7. The short title of this Act is the *Gasoline Tax Amendment Act, 1989*. Short title

Bill 25

An Act to protect and enhance the Quality of Drinking Water in Ontario

Mrs. Grier



1st Reading May 18th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill is intended to protect and enhance drinking water quality in Ontario.

It provides opportunities for public involvement in the making of regulations to set maximum permissible levels for contaminants and other substances in drinking water. These regulations would apply to both public and private water systems.

The operator of a public water system is required to monitor water quality regularly and notify the users of the system as well as the Minister of the Environment of the results. Any user of a private water system may have the water tested by the Ministry of the Environment.

It is an offence for the operator of a public water system to provide water which contravenes the regulations or to fail to comply with monitoring and notice requirements. It is an offence for anyone to pollute a public or private water system.

The Bill permits water users to sue to recover damages for contraventions of the Act and gives any person standing to seek judicial review against the Minister of the Environment.

The Minister is authorized to commission research into matters related to drinking water quality and an advisory council is created to assist the Minister.

Bill 25**1989**

**An Act to protect and enhance the
Quality of Drinking Water in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the Water Review Board;

“contaminant” means any biological, chemical or physical agent or combination thereof prescribed as a contaminant;

“Gazette” means *The Ontario Gazette*;

“Minister” means the Minister of the Environment;

“prescribed” means prescribed by the regulations;

“private water system” means any water system that has fewer than fifteen service connections or regularly serves fewer than twenty-five individuals;

“public water supplier” means a person who operates a public water system;

“public water system” means any water system that has fifteen or more service connections or regularly serves twenty-five or more individuals;

“substance” means anything that affects the odour, appearance or taste of drinking water and is prescribed as a substance;

“user”, when used in connection with a water system or public water supplier, means a person who obtains water from the system or supplier;

“water system” means any works for the collection, supply and distribution of water that may be used as drinking water.

Purpose

2. The purpose of this Act is the protection and enhancement of drinking water quality throughout Ontario.

DUTIES OF SUPPLIERS

Duties of
supplier

3. Every public water supplier shall,

- (a) conduct complete water tests in accordance with the regulations, monthly or more frequently as may be prescribed by regulation, to establish contaminant and substance levels and compliance with prescribed standards;
- (b) promptly publish the results of all tests conducted under clause (a) in a newspaper that is published in the community where the supplier's regular users reside;
- (c) supply the results of all tests conducted under clause (a) to every user together with the regular water bill;
- (d) promptly report the results of all tests conducted under clause (a) to the Minister;
- (e) keep full records of all tests conducted under clause (a) and make them available to any person upon request;
- (f) where a test reveals that maximum permitted contaminant levels or maximum permitted substance levels are exceeded or prescribed standards are not adhered to,
 - (i) take immediate steps to cause the water to comply with this Act and the regulations, and
 - (ii) make an alternate supply of safe drinking water available to all users until the main supply complies with this Act and the regulations.

PUBLIC INVOLVEMENT IN REGULATION-MAKING

Draft
regulations
concerning
contaminants

4.—(1) The Minister shall within 180 days after the day this Act comes into force publish in the Gazette a notice set-

ting forth proposed regulations under clause 14 (2) (b) and calling for briefs and submissions in connection therewith.

(2) Any person may within ninety days after the publication of a notice under subsection (1) or (6) require the Board to hold a hearing into any of the proposed regulations by delivering a notice of objection to the Board. Objection

(3) The Board shall hold any hearing required under subsection (2) expeditiously and may consolidate any such hearings where common issues are raised. Hearing

(4) Upon completion of all hearings under subsection (2), the Board shall report its findings and conclusions to the Minister and shall provide a copy of the report to every person who delivered a notice of objection under subsection (2). Report

(5) Regulations under clause 14 (2) (b) shall come into force on or before a day fifteen months after the coming into force of this Act. Effective date

(6) Before further regulations are made or existing regulations are revoked or amended under clause 14 (2) (b), the Minister shall publish in the Gazette a notice setting forth the proposed regulations and calling for briefs and submissions in connection therewith. Further regulations

5.—(1) The Minister shall within 240 days after the day this Act comes into force publish in the Gazette a notice setting forth proposed regulations under clause 14 (2) (c) and calling for briefs and submissions in connection therewith. Draft regulations concerning substances

(2) Regulations under clause 14 (2) (c) shall come into force on or before a day fifteen months after the coming into force of this Act. Effective date

(3) Before further regulations are made or existing regulations are revoked or amended under clause 14 (2) (c), the Minister shall publish in the Gazette a notice setting forth the proposed regulations and calling for briefs and submissions in connection therewith. Further regulations

OFFENCES

6.—(1) No public water supplier shall cause or permit to be supplied to users, Supplying unsafe water

- (a) water containing any contaminant that exceeds the applicable maximum permitted level; or

- (b) water containing any substance that contravenes a prescribed standard or exceeds the applicable maximum permitted level.

Polluting
water
system

(2) No person shall deposit in, add to, emit or discharge into a public water system or a private water system any contaminant or substance so as to cause the water to exceed the maximum permitted level for the contaminant or substance or to contravene a prescribed standard.

Penalties

7. Any person who contravenes this Act or the regulations is guilty of an offence and on conviction is liable to,

(a) in the case of a contravention of section 6 that relates to a contaminant, a fine not exceeding \$50,000; and

(b) in the case of any other contravention, a fine not exceeding \$25,000.

PRIVATE REMEDIES

Action for
damages

8.—(1) Any person may, by action, recover damages caused by a contravention of this Act or the regulations from the person who committed the contravention.

Judicial
review

(2) Any person may apply for judicial review of the Minister's exercise or non-exercise of any power or fulfilment or non-fulfilment of any duty conferred or imposed on the Minister by this Act, whether or not the person applying is specially affected or has suffered special damages.

WATER REVIEW BOARD AND WATER ADVISORY COUNCIL

Water
Review
Board
established

9.—(1) The Water Review Board is hereby established and shall consist of not fewer than five persons appointed by the Lieutenant Governor in Council, who shall hold office during pleasure and none of whom shall be members of the public service.

Chairman
and vice-
chairman

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(3) Three members of the Board constitute a quorum.

Remuneration

(4) The members of the Board may be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

(5) The chairman may authorize one member of the Board to conduct a hearing by the Board and the member has all the powers of the Board for the purpose of the hearing.

One member may conduct hearing

(6) The report of such member may be adopted as the decision of the Board by two other members of the Board, one of whom shall be the chairman or vice-chairman or may be otherwise dealt with as the Board considers proper.

Report

10.—(1) The Water Advisory Council is hereby established and shall consist of not fewer than ten and not more than fifteen persons appointed by the Lieutenant Governor in Council, each to hold office for a term of not more than three years.

Water Advisory Council established

(2) The Lieutenant Governor in Council may appoint one of the members of the Council as chairman and another of the members as vice-chairman.

Chairman and vice-chairman

(3) The composition of the Council shall be such as to provide for competent and knowledgeable persons in matters relating to drinking water quality.

Members

(4) A retiring member of the Council is eligible for reappointment.

Reappointments

(5) The members of the Council may be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine.

Remuneration

11. The Water Advisory Council, through its chairman, shall,

Duties of Council

- (a) advise the Minister as to the results of current research related to,
- (i) drinking water quality, and
- (ii) contaminants and substances and their effects; and
- (b) consider any matter affecting drinking water quality that the Council or the Minister considers advisable and advise the Minister thereon.

STUDIES

12. The Minister shall cause research to be conducted into,

Research

- (a) the causes, diagnosis, treatment, control and prevention of health effects associated with contaminants or substances;
- (b) the quality, quantity and availability of private water supplies;
- (c) the sources of surface and ground water contamination; and
- (d) methods of treating or purifying drinking water.

Testing of
private
water
system

13. The Minister shall, at the request of any user of a private water system, cause the water to be tested in accordance with the regulations to establish contaminant and substance levels and compliance with prescribed standards.

Regulations

14.—(1) The Lieutenant Governor in Council may make such regulations as are advisable to protect and enhance drinking water quality throughout Ontario.

Idem

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) designating any biological, chemical or physical agents or combinations thereof as contaminants and prescribing maximum permissible contaminant levels;
- (b) designating anything as a substance, prescribing standards for substances in water and prescribing maximum permissible substance levels;
- (c) respecting procedures for water tests to be conducted under clause 3 (a) and section 13;
- (d) prescribing greater frequencies than monthly for water tests to be conducted under clause 3 (a) and prescribing the circumstances under which such more frequent tests shall be conducted.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is the *Ontario Safe Drinking Water Act, 1989*.

Bill 26

An Act to amend the Health Protection and Promotion Act, 1983

Mrs. Grier



1st Reading May 18th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to prohibit the sale of irradiated food and food which contains ingredients which have been irradiated.

Bill 26

1989

**An Act to amend the
Health Protection and Promotion Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Protection and Promotion Act, 1983*, being chapter 10, is amended by adding thereto the following section:

17a.—(1) In this section,

Definition

“ionizing radiation” means,

- (a) gamma radiation from a Cobalt-60 or Cesium-137 source,
- (b) X-rays generated from a machine operated at or below an energy level of 5 MeV,
- (c) electrons generated from a machine operated at or below an energy level of 10 MeV, and
- (d) such other radiation as is designated by regulation.

(2) No person shall sell or offer for sale any food which has been treated with ionizing radiation.

Sale of
irradiated
food

(3) No person shall sell or offer for sale any food which contains any ingredient that has been treated with ionizing radiation.

Idem

2. Subsection 95 (1) of the said Act is amended by adding thereto the following clause:

- (da) designating levels and types of radiation for the purposes of section 17a.

3. Subsection 99 (3) of the said Act is repealed and the following substituted therefor:

Offence,
sections of
Act

(3) Any person who contravenes section 16, 17, 17a, 18, 20, 38 or 39, subsection 40 (9), subsection 41 (1), subsection 73 (2) or section 104 is guilty of an offence.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Health Protection and Promotion Amendment Act, 1989*.

Bill 27

An Act to designate an Avian Emblem for Ontario

Mr. Ballinger



1st Reading May 23rd, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would adopt the common loon as the avian emblem of Ontario.

Bill 27**1989****An Act to designate an Avian Emblem for Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** The bird known as the common loon (*Gavia immer*) is adopted as and shall be deemed to be the avian emblem of the Province of Ontario.

Avian
emblem of
Ontario
- 2.** This Act comes into force on the day it receives Royal Assent.

Commence-
ment
- 3.** The short title of this Act is the *Avian Emblem Act*, 1989.

Short title

Bill 28

An Act to amend the Employment Standards Act

Mr. Johnston
(Scarborough West)



1st Reading May 25th, 1989

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to amend the pregnancy leave provision of the Act and to add provisions regarding paternity leave and adoption leave. The amendments are intended to permit employees in Ontario to take advantage of the proposed expanded parental benefits under federal unemployment insurance legislation.

SECTION 1. Changes the heading under Part XI of the Act from "Pregnancy Leave" to "Parental Leave" to reflect the inclusion in Part XI of paternity leave and adoption leave provisions.

SECTION 2. Divides section 35 of the Act into two subsections for greater clarity. The prohibition against an employer dismissing an employee who is entitled to leave is expanded to cover all types of leave under Part XI of the Act.

SECTION 3.—Subsection 1. Amends the pregnancy leave provision in subsection 36 (1) by reducing the minimum period of employment required for eligibility for leave from twelve months and eleven weeks to six months.

Subsection 2. New subsection 36 (3a) is added to clarify when the pregnancy leave may commence. The provision provides that an employee may, in her notice to the employer, specify any day within the eleven-week period immediately preceding the estimated day of her delivery, regardless of whether the actual date of her delivery is before or after the estimated day of her delivery. The provision is intended to provide flexibility in situations where the child is born earlier than the estimated day of delivery.

SECTION 4. New section 37a provides that an employee entitled to pregnancy leave under section 36 or 37 is entitled to a further leave of twelve weeks, subject to the limitation set out in new section 37c.

New section 37b provides for a period of paternity leave of twelve weeks, subject to the limitation set out in new section 37c.

New section 37c provides that the aggregate amount of leave of absence that may be taken by any two employees under sections 37a and 37b in respect of the birth of any one child shall not exceed fourteen weeks. Subject to this limitation, the mother and father of a child are to decide how they will use the periods of leave available under sections 37a and 37b.

New section 37d provides for a period of adoption leave of twelve weeks. This is subject to the limitation that the aggregate amount of leave of absence that may be taken by any two employees under the section in respect of the adoption of any one child shall not exceed fourteen weeks.

SECTION 5. Section 38 of the Act is rewritten to include references to both male and female employees.

Bill 28

1989

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The heading immediately preceding section 35 of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is struck out and the following substituted therefor:

PART XI

PARENTAL LEAVE

2. Section 35 of the said Act is repealed and the following substituted therefor:

35.—(1) Subject to subsection (2), no employer shall terminate the employment of or lay off an employee who is entitled to a leave of absence under this Part. Prohibition

(2) An employer may require an employee who is pregnant to commence a leave of absence under section 36 at such time as the duties of her position cannot reasonably be performed by a pregnant woman or the performance of her work is materially affected by the pregnancy. Employer may require commencement of pregnancy leave

3.—(1) Subsection 36 (1) of the said Act is repealed and the following substituted therefor:

(1) An employee who is pregnant and who has been employed by her employer for a period of at least six months immediately preceding the estimated day of her delivery, whether such employment commenced before or after the coming into force of this subsection, shall be entitled upon her application therefor to a leave of absence of at least seventeen weeks from her employment or such shorter leave of absence as the employee may request commencing during the period Pregnancy leave

of eleven weeks immediately preceding the estimated day of her delivery.

(2) Section 36 of the said Act is amended by adding thereto the following subsection:

When
pregnancy
leave may
commence

(3a) In giving notice under subsection (3), an employee may specify any day within the period of eleven weeks immediately preceding the estimated day of her delivery, regardless of whether the actual date of her delivery is before or after the estimated day of her delivery.

4. The said Act is further amended by adding thereto the following sections:

Further leave

37a.—(1) Subject to section 37c, an employee entitled to a leave of absence under section 36 or 37 shall be entitled upon her application therefor to a further leave of absence of at least twelve weeks from her employment or such shorter leave of absence as the employee may request commencing, as the employee elects,

- (a) on the expiry of any leave of absence from employment taken by her under section 36 or 37; or
- (b) on the day the child comes into her actual care and custody.

Notice

(2) The employee shall give her employer two weeks notice in writing of the day upon which she intends to commence her leave of absence under subsection (1).

Leave may
be shortened

(3) An employee may, with the consent of her employer, shorten the duration of the leave of absence requested under subsection (1).

Special
entitlement
to leave

(4) An employee who fails to comply with subsection (2) shall nevertheless be entitled, upon application to her employer therefor, to the leave to which she is entitled under subsection (1) or such portion of it as has not yet expired at the time the application is made.

Paternity
leave

37b.—(1) Subject to section 37c, an employee who has become the father of a child and who has been employed by his employer for a period of at least six months, whether such employment commenced before or after the coming into force of this subsection, shall be entitled upon his application therefor to a leave of absence of at least twelve weeks from his employment or such shorter leave of absence as the employee may request commencing, as the employee elects,

- (a) on the day the child is born;
- (b) after the birth of the child but during, or on the expiry of, any leave of absence from employment taken under this Act, an Act of the Parliament of Canada or any other Legislature, or any collective agreement, by a female employee in respect of the child; or
- (c) on the day the child comes into his actual care and custody.

(2) The employee shall give his employer two weeks notice in writing of the day upon which he intends to commence his leave of absence. Notice

(3) An employee may, with the consent of his employer, shorten the duration of the leave of absence requested under subsection (1). Leave may be shortened

(4) An employee who fails to comply with subsection (2) shall nevertheless be entitled, upon application to his employer therefor, to the paternity leave to which he is entitled under subsection (1) or such portion of it as has not yet expired at the time the application is made. Special entitlement to leave

37c. The aggregate amount of leave of absence from employment that may be taken by any two employees under sections 37a and 37b in respect of the birth of any one child shall not exceed fourteen weeks. Limit on aggregate leave by two employees

37d.—(1) Subject to subsection (5), an employee who has adopted a child under the law of any province and who has been employed by his or her employer for a period of at least six months, whether such employment commenced before or after the coming into force of this subsection, shall be entitled upon his or her application therefor to a leave of absence of at least twelve weeks from his or her employment or such shorter leave of absence as the employee may request commencing, as the employee elects, Adoption leave

- (a) on the day the child comes into the employee's actual care and custody;
- (b) at any time during, or on the expiry of, any leave of absence from employment taken under this Act, an Act of the Parliament of Canada or any other Legislature, or any collective agreement, by any other person in respect of the child; or

- (c) at any time during the ninety days immediately following the day on which the child comes into the employee's actual care and custody.

Notice

(2) The employee shall give his or her employer two weeks notice in writing of the day upon which he or she intends to commence the leave of absence.

Leave may
be shortened

(3) An employee may, with the consent of his or her employer, shorten the duration of the leave of absence requested under subsection (1).

Special
entitlement
to leave

(4) An employee who fails to comply with subsection (2) shall nevertheless be entitled, upon application to his or her employer therefor, to the adoption leave to which he or she is entitled under subsection (1) or such portion of it as has not yet expired at the time the application is made.

Limit on
aggregate
adoption
leave by two
employees

(5) The aggregate amount of leave of absence from employment that may be taken by any two employees under this section in respect of the adoption of any one child shall not exceed fourteen weeks.

5. Section 38 of the said Act is repealed and the following substituted therefor:

Reinstatement and
preservation
of seniority

38.—(1) An employee who intends to resume his or her employment on the expiration of a leave of absence granted under this Part shall so advise his or her employer and on the employee's return to work the employer shall reinstate the employee to his or her position or provide the employee with alternative work of a comparable nature at not less than his or her wages at the time the leave of absence began and without loss of seniority or benefits accrued to the commencement of the leave of absence.

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to his or her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time the leave of absence began with no loss of seniority or benefits accrued to the commencement of the leave of absence, and in the absence of such a system or practice shall reinstate the employee in accordance with subsection (1).

6. This Act comes into force on the day it receives Royal Assent. Commence-
ment

7. The short title of this Act is the *Employment Standards Amendment Act, 1989*. Short title

Bill 29

An Act to amend the Teachers' Superannuation Act, 1983

Mr. Cureatz



1st Reading May 29th, 1989
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill amends the Act to add a provision permitting a refund of pension contributions to be made to the personal representative of a deceased contributor where the spouse or child of the contributor cannot be found. The provision authorizes the Teachers' Superannuation Commission to make such a refund if it is satisfied that reasonable inquiries have been made to find the spouse or child and more than one year has passed since the death of the contributor. The provision is similar to section 37 of the *Public Service Superannuation Act*.

Bill 29

1989

**An Act to amend the
Teachers' Superannuation Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Teachers' Superannuation Act, 1983*, being chapter 84, is amended by adding thereto the following section:

47a.—(1) If a spouse or child of a person who was employed in education and has died cannot be found and the Commission is satisfied that reasonable inquiries have been made to find the spouse or child and more than one year has passed since the death, the Commission may, despite any other provision of this Act, direct that the refund that would be payable out of the Fund under section 47 to the personal representative had the person died leaving no spouse and no child be paid to the personal representative upon such terms and conditions as the Commission directs.

Refund to
personal
representative where
spouse or
child
cannot
be found

(2) If a spouse or child referred to in subsection (1) is subsequently found and a claim is made for any amount payable under this Act, the Commission may direct that the amount, less any refund paid under subsection (1), be paid to the spouse or child, as the case may be.

Where
spouse or
child later
found

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Teachers' Superannuation Amendment Act, 1989*.

Short title



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